

José Manuel Barroso
President of the European Commission

Brussels, 14 MARS 2014

Subject: *Own-initiative inquiry,
ref. OI/6/2013/KM*

Dear Ms O'Reilly,

Thank you for the letter of 11 December 2013 regarding the above-mentioned case.

I am pleased to enclose the comments of the Commission on this complaint.

Naturally, the Commission remains at your disposal for any further information you may require.

Yours sincerely,



José Manuel BARROSO

Enclosures

Ms Emily O'REILLY
European Ombudsman
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**Comments of the Commission on a request for information from the
European Ombudsman
– Own-initiative inquiry, ref. OI/6/2013/KM**

1. BACKGROUND

- 1.1. On 11 December 2013 the Ombudsman informed the Commission that she has initiated an own initiative inquiry under Article 228 of the Treaty on the Functioning of the European Union into possible problems of a systemic kind encountered by the European Parliament, the Council and the Commission in respecting the time limits provided for in Regulation 1049/2001 on access to documents.
- 1.2. In her letter the Ombudsman notes that the Commission, in its 2012 Annual Report on the implementation of Regulation 1049/2001, states that it dealt with 6 014 initial applications and 229 confirmatory applications, but does not provide any statistics on the time it took to deal with these applications.
- 1.3. As a first step in her inquiry, the Ombudsman asks the Commission to provide specific statistics on the treatment of initial and confirmatory applications in the years 2010, 2011 and 2012.

2. INFORMATION REQUESTED

- 2.1. The annex reproduces the detailed information requested by the Ombudsman. It follows the same structure as the Ombudsman's information request.
- 2.2. The Commission remains available to provide further clarifications where needed.

Annex: Detailed replies to each question

Detailed replies to each question

1. Initial applications¹

As regards the years 2010, 2011 and 2012:

(i) How many initial applications did the Commission receive?

2010 : 6361 initial applications

2011 : 6477 initial applications

2012 : 6014 initial applications

2013 : 6525 initial applications

(ii) How many working days passed from the registration of the application until the decision on it?

2010 : 16 days on average

2011 : 17 days on average

2012 : 18 days on average

2013 : 14 days on average

How many working days did it take the Commission to reply in the three cases that took the longest?

GESTDEM² 2010/4334 : 627 days

GESTDEM 2010/4352 : 626 days

GESTDEM 2010/4838 : 608 days

(iii) In how many cases did the Commission extend the time limit in accordance with Article 7(3) of Regulation 1049/2001?

2010 : in 710 of cases, corresponding to 11,16 % of cases

2011 : in 760 cases, corresponding to 11,73 % of cases

¹ For technical reasons, the figures provided below for initial applications do not cover applications dealt with by the European Anti-Fraud Office (DG OLAF) and the Service for Foreign Policy Instruments (FPI), as the corresponding data cannot be extracted from the Commission's *Gestdem* system for the registration of initial and confirmatory applications.

² Gestdem is the Commission's electronic database for registering initial and confirmatory replies and the different stages of their follow-up.

2012 : in 809 cases, corresponding to 13,45 % of cases

2013 : in 820 cases, corresponding to 12,57 % of cases

What is the average number of working days the Commission needed to reply in those cases?

2010 : 38 working days on average

2011 : 39 working days on average

2012 : 36 working days on average

2013 : 34 working days on average

(iv) How many applications were pending on 15 November 2013, and in how many of those has the time limit provided for in Regulation 1049/2001 expired?

These figures can only be provided for the day of extraction of the data, and not retroactively.

On 6.2.2014, the respective figures were:

- **567 pending initial applications (I.A.) registered in 2013 and 2014**
- **255 of these were no longer within the first fifteen-day time limit;**
- **54 of these 255 applications were still within the extended time limit.**

2. Confirmatory applications

As regards the years 2010, 2011 and 2012:

(i) How many confirmatory applications did the Commission receive?

2010 : 182 confirmatory applications

2011 : 165 confirmatory applications

2012 : 229 confirmatory applications

2013 : 241 confirmatory applications

(ii) How many working days passed from the registration of the application until the decision on it?

2010 : 89 working days on average

2011 : 86 working days on average

2012 : 64 working days on average

2013 : 49 working days on average

How many working days did it take the Commission to reply in the three cases that took the longest?

GESTDEM 2010/21 : 512 working days

GESTDEM 2010/3731: 473 working days

GESTDEM 2010/6341 : 450 working days

(iii) In how many cases did the Commission extend the time limit in accordance with Article 8(2) of Regulation 1049/2001?

2010 : in 147 cases, corresponding to 80,77 % of cases

2011 : in 135 cases, corresponding to 81,82 % of cases

2012 : in 171 cases, corresponding to 74,67 % of cases

2013 : in 153 cases, corresponding to 63,49 % of cases

What is the average number of working days the Commission needed to reply in those cases?

2010 : 88 working days

2011 : 92 working days

2012 : 75 working days

2013 : 58 working days

(iv) How many applications were pending on 15 November 2013, and in how many of those has the time limit provided for in Regulation 1049/2001 expired?

These figures can only be provided for the day of extraction of the data, and not retroactively.

On 6.2.2014, the respective figures were:

- **70 pending confirmatory applications**
- **35 of these were no longer within the initial time limit;**
- **10 of these 35 applications were still within the extended time limit**

3. Fair solutions in accordance with Article 6(3) of Regulation 1049/2001

As regards the years 2010, 2011 and 2012:

(i) In how many applications did the Commission rely on Article 6(3) of Regulation 1049/2001 to propose a fair solution?

Initial applications : Initial requests are managed at operational level in a decentralised manner. It is currently not possible to encode the requested data in the central *Gestdem* database. This information can therefore not be extracted from the Commission's database.

Confirmatory applications:

2010 : in 51 applications

2011 : in 15 applications

2012 : in 9 applications

2013 : in 1 application

(ii) At which point in the procedure was this option used, and which reasons did the Commission refer to when proposing such a fair solution?

Initial applications : Initial requests are managed at operational level in a decentralised manner. It is currently not possible to encode the requested data in the central *Gestdem* database. This information can therefore not be extracted from the Commission's database.

Confirmatory applications : this information cannot be extracted from the Commission's database

(iii) How many working days passed from the registration of the application until the decision in cases in which a fair solution was found?

Initial applications : Initial requests are managed at operational level in a decentralised manner. It is currently not possible to encode the requested data in the central *Gestdem* database. This information can therefore not be extracted from the Commission's database.

Confirmatory applications:

2010 : 103 working days

2011 : 169 working days

2012 : 104 working days

2013 : 71 working days

How many working days did it take the Commission to reply in the three cases that took the longest?

Initial applications : Initial requests are managed at operational level in a decentralised manner. It is currently not possible to encode the requested data in the central *Gestdem*

database. This information can therefore not be extracted from the Commission's database

Confirmatory applications :

GESTDEM 2010/3731 : 473 working days

GESTDEM 2010/6341 : 450 working days

GESTDEM 2011/1717 : 392 working days