



**P. Nikiforos Diamandouros**  
European Ombudsman

Mr Uwe Corsepius  
Secretary-General  
Council of the European Union  
1048 BRUSSELS  
BELGIQUE

Strasbourg, 29 -06- 2011

Own-initiative inquiry OI/3/2011/KM concerning the Council of the European Union

Dear Mr Corsepius,

According to Article 228 of the Treaty on the Functioning of the European Union, the European Ombudsman is empowered to conduct inquiries on his own initiative in relation to the activities of the Union institutions, bodies, offices or agencies.

In its opinion on complaint 1170/2009/KM, which concerned the handling of a request for access to documents under Regulation 1049/2001, the Council made the following statement:

*"the Council would point out that, in accordance with Article 8 of Annex II of its Rules of Procedure, confirmatory applications are decided by the Council. The Council's decision is prepared by the working party responsible and by Coreper. Since replies to confirmatory applications need to be examined and approved by all these bodies, it is not unusual for the processing of applications to run beyond the normal time-limit provided for by Article 8(1) of Regulation 1049/2001."*

Article 8(2) of Regulation 1049/2001 provides as follows:

*"In exceptional cases, for example in the event of an application relating to a very long document or to a very large number of documents, the time limit provided for in paragraph 1 may be extended by 15 working days, provided that the applicant is notified in advance and that detailed reasons are given."*

It is thus clear that the time limit for dealing with confirmatory applications may only be extended in exceptional cases.

In its draft ninth Annual Report on the implementation of Regulation 1049/2001, which is available on the Council's website, the Council stated that it extended the time limit for replying in 26 of 28 confirmatory applications in 2010, in 32 of 33 cases in 2009 and in 20 of 24 cases in 2008. The report also



states that the average time for processing confirmatory applications was 28 working days in 2010 and 26 working days in 2009.

In view of the above, it seems useful to explore possibilities for improvement of the Council's system for handling confirmatory applications for access to documents, in order to enhance the Council's ability to meet the legal deadlines for its replies.

I therefore request the Council to submit an opinion on the above issue. I would very much appreciate it if, in this opinion, the Council could describe in detail (i) its procedures for dealing with both initial requests for access to documents and confirmatory applications and (ii) what measures the Council could envisage to enhance its ability to comply with the deadlines for replies to confirmatory applications.

I would be grateful if I could receive your reply by 31 August 2011 at the latest.

Direct contact between the Council's services and the Ombudsman's services on this matter could perhaps also be useful. Your services are welcome to contact Ms Katrin Müller-van Ißem, the legal officer handling this case (+32 2 284 2543).

Yours sincerely,

P. Nikiforos Diamandouros

cc: Mr Hubert Legal, Director-General of the Legal Service

**BISMARQUE-ALCANTARA Bruno Alexandre**

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**From:** EORegistry  
**Sent:** 29 June 2011 16:36  
**To:** 'sj.ombudsman@consilium.europa.eu'  
**Subject:** Own Initiative Inquiry OI/3/2011/KM  
**Attachments:** OI-3-2011-KM-S2011-138831.pdf

Dear Ms Fekete,

Please find enclosed a copy of the Ombudsman's letter to Mr Uwe Corsepius concerning the above Own Initiative Inquiry.

Please note that this email replaces the previous one sent today at 12h18.

Best Regards,

Bruno BISMARQUE-ALCÂNTARA

Registry (formerly the complaints secretariat)