

Press and Information Division

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Judgment of the Court of Justice in Case C-353/01 P

Olli Mattila v Council of the European Union and Commission of the European Communities

THE COURT SETS ASIDE THE DECISION OF THE COURT OF FIRST INSTANCE AND THE DECISIONS OF THE COMMISSION AND THE COUNCIL REFUSING MR MATTILA ACCESS TO CERTAIN DOCUMENTS

The failure by the Community institutions to fulfil their obligation to examine the possibility of granting the public partial access to documents in their possession leads to the annulment of their decisions refusing to communicate those documents.

In March 1999, Mr Mattila, a Finnish citizen, asked the Commission and the Council for access to 11 documents concerning principally the relations of the European Union with Russia and Ukraine. Public access to documents in the possession of those two institutions was, at the time, governed by a code of conduct. The Commission and the Council refused to grant access to 10 documents on the ground that they were covered by the exception based on protection of the public interest in the field of international relations.

In its judgment of 12 July 2001, the Court of First Instance dismissed Mr Mattila's action seeking the annulment of those negative decisions. Mr Mattila brought an appeal against that judgment before the Court of Justice.

First, the Court observes that the Court of First Instance found that the Council and the Commission did not consider the possibility of granting partial access to the information which was not covered by the exception. The Court recalls that the examination of the possibility of partial access constitutes an obligation, under Community legislation and in accordance with the principle of proportionality, failure to comply with this obligation leads to the annulment of the decisions refusing to communicate the documents.

The Court considers that the Court of First Instance wrongly held that the fact that the institutions could not have allowed partial access, even if they had carried out such an examination, does not lead to the annulment of those negative decisions. The Court holds that communicating the reasons for the refusal to the person concerned for the first time before the Community courts is not compatible with the procedural guarantees provided by Community law, and with the right of the person concerned to know the immediate reasons for any decision adversely affecting him adopted by the Community institutions.

The Court sets aside the judgment of the Court of First Instance and annuls the negative decisions of the Council and the Commission.

Unofficial document, for media use only, which does not bind the Court of Justice.

Available languages: DE, EN, FR, IT, GR.

The full text of the judgment can be found on the internet (www.curia.eu.int).

In principle it will be available from midday CET on the day of delivery.

For additional information please contact Christopher Fretwell.

Tel: (00352) 4303 3355 Fax: (00352) 4303 2731.

Pictures of the hearing are available on "Europe by Satellite"

European Commission, Press and Information Service, L-2920 Luxembourg

Tel: (00 352) 4301 35177; Fax: (00 352) 4301 35249,

or B-1049 Brussels, Tel: (00 32) 2 2964106, Fax: (00 32) 2 2965956, or (00 32) 2 301280