

# Joined Cases T-110/03, T-150/03 and T-405/03

**Jose Maria Sison**

**v**

**Council of the European Union**

(Access to documents — Regulation (EC) No 1049/2001 — Documents relating to Council decisions concerning the fight against terrorism — Exceptions relating to the protection of the public interest — Public safety — International relations — Partial access — Statement of reasons — Rights of the defence)

Judgment of the Court of First Instance (Second Chamber), 26 April 2005 . . . II - 1432

## Summary of the Judgment

1. *European Communities — Institutions — Right of public access to documents — Regulation No 1049/2001 — Existence of the documents access to which is sought — Presumption of non-existence based on the statement to that effect by the institution concerned — Simple presumption rebuttable by relevant and consistent evidence (European Parliament and Council Regulation No 1049/2001)*

2. *European Communities — Institutions — Right of public access to documents — Regulation No 1049/2001 — Exceptions to the right of access to documents — Protection of the public interest — Judicial review — Scope — Limits*  
(European Parliament and Council Regulation No 1049/2001, Art. 4(1)(a))
3. *European Communities — Institutions — Right of public access to documents — Regulation No 1049/2001 — Exceptions to the right of access to documents — Mandatory exceptions — Taking into account of the applicant's particular interest — Not permitted*  
(European Parliament and Council Regulation No 1049/2001, Art. 4(1)(a))
4. *European Communities — Institutions — Right of public access to documents — Regulation No 1049/2001 — Exceptions to the right of access to documents — Obligation to state reasons — Scope*  
(Art. 253 EC; European Parliament and Council Regulation No 1049/2001)

1. A presumption of legality attaches to any statement of the institutions relating to the non-existence of documents requested under Regulation No 1049/2001 regarding public access to European Parliament, Council and Commission documents. Consequently, a presumption of veracity also attaches to such a statement. That is, however, a simple presumption which the applicant may rebut in any way by relevant and consistent evidence.

Regulation No 1049/2001 regarding public access to European Parliament, Council and Commission documents, the institutions enjoy a wide discretion. Consequently, the Court's review of the legality of decisions of the institutions refusing access to documents on the basis of the exceptions relating to the public interest provided for in that provision must be limited to verifying whether the procedural rules and the duty to state reasons have been complied with, the facts have been accurately stated, and whether there has been a manifest error of assessment of the facts or a misuse of powers.

(see paras 29, 32)

2. In areas covered by the mandatory exceptions to public access to documents, provided for in Article 4(1)(a) of

(see paras 46-47)

3. The exceptions to access to documents, provided for by Article 4(1)(a) of Regulation No 1049/2001 regarding public access to European Parliament, Council and Commission documents, are framed in mandatory terms. It follows that the institutions are obliged to refuse access to documents falling under any one of those exceptions once the relevant circumstances are shown to exist.

Consequently, the particular interest which may be asserted by a requesting party in obtaining access to a document concerning him personally cannot be taken into account when applying the mandatory exceptions provided for by the said Article 4(1)(a).

(see paras 51-52)

4. Where an institution refuses access to documents requested on the basis of Regulation No 1049/2001 regarding public access to European Parliament, Council and Commission documents, it must demonstrate in each individual

case, on the basis of the information at its disposal, that the documents to which access is sought do indeed fall within the exceptions listed in that regulation. It is therefore for the institution to provide a statement of reasons from which it is possible to understand and ascertain, first, whether the document requested does in fact fall within the sphere covered by the exception relied on and, second, whether the need for protection relating to that exception is genuine.

However, it may be impossible to give reasons justifying the need for confidentiality in respect of each individual document without disclosing the content of the document and, thereby, depriving the exception of its very purpose. It follows that, in such circumstances, the fact that the statement of reasons appears brief and formulaic does not, in itself, constitute a failure to state reasons since it does not prevent either the understanding or the ascertainment of the reasoning followed by the institution concerned.

(see paras 60-61, 63)