



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 16 October 2013

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AG 8**

NOTE

from:	The Secretary-General, Mr Uwe Corsepius
to:	Delegations
Subject:	Disclosure of confidential documents

1. The Council promotes an proactive communications and openness policy. It makes a significant amount of information available through electronic and other media and complies fully with the legal requirements relating to the transparency of its proceedings and access to its documents.
2. The Council and its members are also required to comply with the legal requirements laid down by the Treaties and secondary legislation relating to the obligation of professional secrecy, the protection of personal data and the protection of classified and other documents whose disclosure is not permitted. These rules exist to protect the interests of Member States, the Union and its citizens including the ability of the Council to carry out its responsibilities under the Treaties.

3. There have been a number of recent instances where Council documents marked as "Limite" have been passed to and its published in the press. It is recalled that any unauthorised disclosure of such documents is contrary to the obligations imposed on the Union Institutions and its Member States by the Treaties, in particular Article 339 TFEU, and undermines the ability of the Council and its members to carry out their responsibilities on the basis of frankness and mutual confidence. Council members have a duty to ensure that the requirements approved by the Council on handling LIMITE documents¹ are respected.

4. There have also been a number of cases where such documents have been published by national Parliaments. Such documents are made available to Member States in their capacity as members of the Council. It is for each Member State to determine to whom, within its political and constitutional structures, it is necessary to provide access to document internal to Council in order to enable their representatives to carry out their functions as members of the Council². However in so doing Member States are responsible for ensuring that such documents are handled in accordance with the legal obligations arising under the Treaties and secondary legislation including the obligations of confidentiality.

5. It would be appreciated if these points could also be drawn to the attention of all your national administrations and bodies handling Council documents.

¹ See document 11336/11.

² See Council Legal Service Contribution 10384/13 of 31 May 2013.