



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 30 March 2012

7530/12

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API 28
JUR 139**

NOTE

from : General Secretariat of the Council
to : Working Party on Information

Subject : Public access to documents
- Confirmatory application No 07/c/01/12

Delegations will find attached:

- request for access to document sent to the General Secretariat of the Council on 21 February 2012 and registered on 22 February 2012 ([Annex 1](#))
- reply from the General Secretariat of the Council dated 27 February 2012 ([Annex 2](#))
- confirmatory application dated 9 March 2012 and registered on the same day ([Annex 3](#))

[E-mail message sent on 21 February 2012 - 19:05]

This e-mail has been sent to access@consilium.europa.eu using the electronic form available in the Register application

This electronic form has been submitted in **FR**

Title/Gender: **DELETED**

Family Name: **DELETED**

First Name: **DELETED**

E-Mail: **DELETED**

Occupation: **DELETED**

On behalf of: **DELETED**

Address: **DELETED**

Telephone:

Mobilephone:

Fax:

Requested document(s):

Note from the French delegation on the Commission Communication to the EP and the Council on the evaluation of EU readmission agreements. (9462/11 - MIGR97, 28/04/2011)

1st preferred linguistic version: FR - Français

2nd preferred linguistic version: EN - Anglais



**COUNCIL OF
THE EUROPEAN UNION**

GENERAL SECRETARIAT

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Brussels, 27 February 2012

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Ref. 12/0308-nh/ns

Dear **DELETED**,

Your request of 21 February 2012 for access to document 9462/11 was registered on 22 February 2012 by the "Access to Documents" unit. Thank you for your interest.

The General Secretariat of the Council has examined your request on the basis of Regulation (EC) No 1049/2001 of the European Parliament and of the Council regarding public access to European Parliament, Council and Commission documents (Official Journal L 145, 31.5.2001, p. 43) and the specific provisions concerning public access to Council documents set out in Annex II to the Council's Rules of Procedure (Council Decision No 2009/937/EU, Official Journal L 325, 11.12.2009, p. 35) and has come to the following conclusion:

Document 9462/11 is a note from the French delegation to the Working Party on Integration, Migration and Expulsion containing a contribution from this delegation to the Commission Communication on evaluation of EU readmission agreements.

The Commission sent its above-mentioned Communication to the Council on 23 February 2011. At the meeting of the Strategic Committee on Immigration, Frontiers and Asylum (SCIFA) on 31 March and 1 April 2011, a discussion was initiated on the evaluation of EU readmission agreements and on the 15 recommendations set out in the Commission Communication, with a view to the preparation of the renewed strategy requested by the European Council in the Stockholm Programme (2010-2014). On 9-10 June 2011, the Council (Justice and Home affairs) adopted a set of Conclusions defining the future strategy of the European Union. In the beginning of January 2012, the Danish Presidency launched technical discussions in the framework of the Working Party on Integration, Migration and Expulsion with a view to operationalising the aforesaid Council Conclusions. These discussions are still on-going at Council preparatory body level.

The disclosure of the position of a delegation, which is identified explicitly, on a sensitive issue which is subject to on-going negotiations would jeopardise the delegations' capacity to freely express their views within the Council's preparatory bodies and could thereby, in the General Secretariat's view, seriously undermine the Council's decision-making process. Furthermore, as the document contains opinions on internal EU strategies in negotiations on international agreement, meant for internal use as part of deliberations and preliminary consultations within the Council, the General Secretariat considers that its disclosure would be premature in that it could impede the proper conduct of the on-going discussions and compromise the conclusion of an agreement on this subject.

Thus, as there is no evidence suggesting an overriding public interest to warrant disclosure of the document in question, the General Secretariat has concluded that protection of the decision-making process outweighs the public interest in disclosure. Accordingly, pursuant to Article 4(3), first subparagraph of the Regulation (Council's decision-making process), the General Secretariat is unable to accede to your request for access at this stage.

The General Secretariat has also looked into the possibility of disclosing parts of the document pursuant to Article 4(6) of the Regulation. However, as the information contained in the document[s] forms an inseparable whole, partial access cannot be granted

According to Article 7(2) of the Regulation, you may submit a confirmatory application requesting the Council to reconsider this position, within 15 working days of receiving this reply¹.

Yours sincerely,

For the General Secretariat

Jakob Thomsen

¹ Should you decide to do so, then please indicate whether you permit the Council to make your confirmatory application fully public in the Council's Register of documents. If you do not reply or reply in the negative, then your application will be dealt with confidentially. Your reply will in no way prejudice your rights under Regulation (EC) No 1049/2001.

[Confirmatory application sent by e-mail on 9 March 2012 - 16:39]

Dear Mr Thomsen,

I duly note your decision of 27 February 2012 refusing access to document 9462/11.

I should like to reaffirm my wish to have access to this document. Over and above the grounds you adduce, it would seem to be a matter of public interest to know what criteria are used to evaluate readmission agreements. Moreover, it is a principle of good governance that any evaluation should be based on transparent criteria and that the findings should be made public.

Nor do I understand the argument about some sort of impediment to international relations, since the point at issue is not any particular negotiation with a third country but a general approach.

I would therefore ask you to amend your decision to refuse access to this document.

I should be obliged if you would acknowledge receipt of this request.

I look forward to your reply.

With my sincere regards,

DELETED
