



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 17 September 2012

**13306/2/12
REV 2**

**INF 130
API 81**

REVISED "I/A" ITEM NOTE

from : Working Party on Information
to : Coreper (part 2)/Council

No. prev. doc.: 13305/12

Subject : Public access to documents
- Confirmatory application No 16/c/01/12

Delegations will find enclosed a draft reply from the Council to confirmatory application No 16/c/01/12, as it stands after examination by the Working Party on Information at its meeting on 14 September 2012.

The Finnish delegation indicated that it would vote against the draft reply and made the following statement:

FI: *"FI stresses the importance of good governance especially with regard to genuinely assisting the applicants in specifying their applications for access to documents. FI is of the opinion that the information sought by the applicant could have been given on the basis of his application".*

A majority of delegations agreed to publish the result of the vote.

The Permanent Representatives Committee is accordingly asked to suggest that the Council, at its next meeting:

- record its agreement to the draft reply annexed to this document, as an "A" item, with the Finnish delegation voting against,
- decide to publish the result of the vote.

The Annex is available in English only.

DRAFT
REPLY ADOPTED BY THE COUNCIL ON
TO CONFIRMATORY APPLICATION No 16/c/01/12,
made by e-mail on 20 July 2012,
pursuant to Article 7(2) of Regulation (EC) No 1049/2001,
for public access to a document or documents describing
the basis on which the Council adopts conclusions

The Council has considered this confirmatory application under Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ L 145 of 31.5.2001, p. 43) (hereafter "Regulation (EC) No 1049/2001") and Annex II to the Council's Rules of Procedure (Council Decision 2009/937/EU, OJ L 325, 11.12.2009, p. 35) and has come to the following conclusion:

1. In his initial request, the applicant requested "access to a document or documents describing the basis on which the Council adopts conclusions".
2. In its reply dated 29 June 2012, the General Secretariat could not identify the document or documents requested describing the basis on which the Council adopts conclusions. It referred the applicant to the Council's Rules of Procedure and provided a link to this public document.
3. In his confirmatory request made on 20 July 2012, the applicant reiterated his initial request: "Please would you provide me access to a document or documents describing the basis on which the Council adopts conclusions." He commented that "the Council's Rules of Procedure do not describe 'the basis on which the Council adopts conclusions'".
4. When examining a confirmatory application for access to documents, the Council is limited to the scope of the initial request. After a thorough enquiry, the Council could not identify any specific document or documents describing the basis on which the Council adopts conclusions.

Conclusion

5. For the reasons set out above, the Council is unable to identify and grant the applicant access to a document or documents corresponding to the request.