



Council of the
European Union

Brussels, 9 June 2016
(OR. en)

10044/16

INF 104
API 69

NOTE

From: General Secretariat of the Council
To: Working Party on Information
Subject: Public access to documents
- Confirmatory application No 14/c/05/16

Delegations will find attached:

- message containing a request for access to documents sent to the General Secretariat of the Council on 15 February 2016 and registered on the same day ([Annex 1](#));
- reply to the above-mentioned message from the General Secretariat of the Council dated 18 March ([Annex 2](#));
- confirmatory application dated 7 June 2016 and registered the same day ([Annex 3](#))

[E-mail message sent to jakob.thomsen@consiliumeuropa.eu on 15 February 2016 - 11:23]

From: **DELETED**

Sent: Monday, February 15, 2016 11:23 AM

To: SECRETARIAT DGF Access

Cc: THOMSEN Jakob

Subject: Confirmatief verzoek in Nederlandse taal (Confirmatory Application written in Dutch) re ref. 15/1896 en ref. 15/2110

Dear Mr Thomsen,

NOT REPRODUCED

6. **NOT REPRODUCED** Nevertheless, in view of the possibility set out in Article 6(3) of the Transparency Regulation to confer informally with a view to finding a fair solution, during the meeting I stated that I was prepared to limit the scope of my applications even further, namely to the following types of documents from the period 1998-2008: room documents, ST documents, informal meeting minutes and similar documents. Through this (drastic) restriction all documents dating from the period 2009-2015 were eliminated from my request.

NOT REPRODUCED

10. I would point out that the Council is not adhering to the agreed stages of the time limits, nor is it properly complying with the agreed fair solution. The fair solution came about partly as a result of the initiatives I took myself to have my request handled efficiently; I drastically restricted my initial application – to save the Council work and have my application dealt with on time. In the meantime, almost two months have passed since the date (Christmas 2015) on which I might have expected to have my request handled properly and in its entirety. Instead, the Council has processed only a small part of my application and in that context has even introduced unfair restrictions. Since the Council is not complying with the agreed fair solution I no longer consider myself bound by it. For what it is worth, I am therefore withdrawing my consent to the fair solution.

NOT REPRODUCED



Council of the European Union

General Secretariat

Directorate-General Communication and Document Management

Directorate Document Management

Transparency and Access to Documents Unit

DELETED

Brussels, 18 March 2016

Ref. 04/c/02/16

Dear **DELETED**,

Thank you for your e-mail of 15 February 2016 and registered on the same day by which you made a confirmatory application for public access to Council documents pursuant to Article 7(4) of Regulation (EC) No 1049/2001 regarding public access to European Parliament, Council and Commission documents (Official Journal L 145 of 31.05.2001, p. 43).

The General Secretariat of the Council would like to point out, that following your reception of the replies to your initial requests (ref. 15/1896 and 15/2110) on 7 March 2016, your confirmatory application introduced pursuant to Article 7 (4) of the Regulation has effectively become void of substance.

You may, however, ask the Council to proceed to a review of the administrative decisions set out in the replies to your initial requests (ref. 15/1896 and 15/2110) pursuant to Article 7 (2) of Regulation (EC) 1049/2001.¹

¹ Article 7(2) of Regulation (EC) No 1049/2001.

Council documents on confirmatory applications are made available to the public. Pursuant data protection rules at EU level (Regulation (EC) No 45/2001), if you make a confirmatory application your name will only appear in related documents if you have given your explicit consent.

As regards the request for access to documents relating to the work of the Code of Conduct Group for the period 2009 - 2015, which you re-introduced in your e-mail of 15 February 2016, the General Secretariat of the Council will proceed to an examination of the roughly 400 documents concerned by this requests in three chronological stages: 2009-2011 (ref. 16/591), 2012-2013 (ref. 16/592), and 2014-2015 (ref. 16/593).

However, given the high number of documents concerned by this request as well as the need to consult the European Commission and the EU Member States as to whether or not access may be granted to (most of) the requested documents, you will understand that General Secretariat will not be in a position to complete the processing of your application within the normal time-limits foreseen by the Regulation. Under these circumstances, we hope that you will be able to accept that we will send you our replies to your request piecemeal, as the examination of the requested documents is concluded.

Yours sincerely,

For the General Secretariat

Jakob Thomsen

[E-mail message sent to jakob.thomsen@consiliumeuropa.eu on 7 June 2016 - 14:33]

From: DELETED

Sent: Tuesday, June 07, 2016 2:33 PM

To: DGF SECRETARIAT Access

Subject: confirmatory application

Dear Mr Thomsen,

On the basis of Article 7 (4) of Regulation 1049/2001 (the Transparency Regulation) I hereby submit confirmatory applications relating to applications which you have registered under reference numbers 16/591, 16/592, and 16/593.

Articles 7 (1) and 8 (1) of the Transparency Regulation specify a time limit of 15 working days within which both an initial application and a complaint (confirmatory application) should be handled. Only in exceptional cases may the time limit be extended once by 15 working days (Articles 7 (3) and 8 (2) of the Transparency Regulation). Failure to reply within the time limit is considered a rejection and gives the applicant the right, in the case of an initial application, to submit a confirmatory application. Both the time limits in the Transparency Regulation and the time limit within which the Council, in keeping with its own undertaking, was to give effect to my application expired some time ago. In this context, I would also refer you to my email of 5 April 2015 (see below) in which I asked you to have to have an exchange of views with me on the period within which my application would be handled, but to which unfortunately I have not received any reply at all. I therefore consider that I am now entitled to submit a confirmatory application.

In addition, I refer to the objections that I raised in my confirmatory application of 15 February 2016 and my subsequent correspondence (emails of 9 March 2016 and 14 March 2016), which I once again request that you take into consideration.

I repeat that my objective is to reach a workable solution for both parties and I therefore repeat my offer to come to Brussels to assist in identifying the documents concerned.

Furthermore, I am also awaiting your decision on my confirmatory application of 15 February 2016, my confirmatory application of 30 March 2016 as well as my confirmatory application of 9 May 2016. I would urgently request that you send me an overview of the situation as regards the processing of these applications by the Council.

I would kindly ask you to send me a confirmation of receipt.

(Complimentary close),

DELETED
