



Council of the  
European Union

Brussels, 16 November 2016  
(OR. en)

12940/16

INF 170  
API 100

**NOTE**

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From: General Secretariat of the Council  
To: Working Party on Information  
Subject: Public access to documents  
- Confirmatory application No 22/c/01/16

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Delegations will find attached the:

- request for access to documents sent to the General Secretariat of the Council on 5 September 2016 and registered on the same day ([Annex 1](#));
- reply from the General Secretariat of the Council dated 4 October 2016 ([Annex 2](#));
- confirmatory application dated 4 October 2016 and registered the same day ([Annex 3](#))

[E-mail message sent to [access@consilium.europa.eu](mailto:access@consilium.europa.eu) on 5 September 2016 - 11:26 using the electronic form available in the Register application]

Title/Gender: **DELETED**

Family Name: **DELETED**

First Name: **DELETED**

E-Mail: **DELETED**

Occupation: **DELETED**

On behalf of: **DELETED**

Address: **DELETED**

Requested document(s): ST 11061 2016 REV 2

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**Council of the European Union**

General Secretariat

Directorate-General Communication and Information

Knowledge Management

Transparency

*Head of Unit*

Brussels, October 2016

**DELETED**

Email: **DELETED**

Ref. 16/1829-jb/mf

Request made on: 05.09.2016

Deadline extension: 26.09.2016

Dear **DELETED**,

Thank you for your request for access to documents of the Council of the European Union.<sup>1</sup>

I regret to inform you that access to document **11061/2/16 REV 2** cannot be given for the reasons set out below.

Document **11061/2/16 REV 2** is a working document from the General Secretariat of the Council to Delegations containing a Non-paper from the Commission drafted to facilitate EU co-ordination regarding the preparation of the 16th meeting of the HELCOM Maritime Group (Tallinn, Estonia, 6-8 September 2016).

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<sup>1</sup> The General Secretariat of the Council has examined your request on the basis of the applicable rules: Regulation (EC) No 1049/2001 of the European Parliament and of the Council regarding public access to European Parliament, Council and Commission documents (OJ 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, OJ L 325, 11.12.2009, p. 35).

The document reflects difficult internal discussions on sensitive international issues. Release of the document would affect the EU's position and severely hamper future discussions on this issue.

Disclosure of the document would therefore undermine the protection of the public interest as regards international relations. As a consequence, the General Secretariat has to refuse access to the document.<sup>2</sup>

We have also looked into the possibility of releasing parts of the document.<sup>3</sup> However, as the information contained in it forms an inseparable whole, the General Secretariat is also unable to give partial access to this document.

You can ask the Council to review this decision within 15 working days of receiving this reply (confirmatory application).<sup>4</sup>

Yours sincerely,

Fernando PAULINO PEREIRA

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<sup>2</sup> Article 4(1)(a), third indent, of Regulation (EC) No 1049/2001.

<sup>3</sup> Article 4(6) of Regulation (EC) No 1049/2001.

<sup>4</sup> Article 7(2) of Regulation (EC) No 1049/2001.

Council documents on confirmatory applications are made available to the public. Pursuant to 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.

[E-mail message sent to [access@consilium.europa.eu](mailto:access@consilium.europa.eu) on 4 October 2016 - 14:36 ]

**From:** **DELETED**

**Sent:** Tuesday, October 04, 2016 2:36 PM

**To:** SECRETARIAT DGF Access

**Subject:** Re: Ref. 16/1829-jb/mf confirmatory application

Sir / Madam,

I would like to launch a confirmatory application with regard to the decision to refuse my request for access to document 11061/1/16 rev 2.

The document in question formed the basis of discussion prior to a meeting that has already taken place (the 16th meeting of the Helcom maritime group in September). This is therefore now a historical document and no longer subject to the political sensitivity that surrounds negotiations prior to such meetings.

To claim that release of this document would "hamper future discussions" is tantamount to suggesting that all discussion within the EU of subjects raised in Helcom are now secret and not for public scrutiny. Given that this forum is mostly for the discussion of pollution-related policies, a real public health concern, such a suggestion is profoundly undemocratic.

Sincerely,

**DELETED**

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