



Council of the
European Union

138219/EU XXV. GP
Eingelangt am 28/03/17

Brussels, 27 March 2017
(OR. en)

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INF 48
API 35

NOTE

From:	General Secretariat of the Council
To:	Working Party on Information
Subject:	Public access to documents - Confirmatory application No 08/c/02/17

Delegations will find attached the:

- request to the Council of the EU for access to documents sent to the General Secretariat of the Council on 18 February 2017 and registered on 20 February 2017 ([Annex 1](#));
- reply from the General Secretariat of the Council dated 14 March 2017 ([Annex 2](#));
- confirmatory application dated 23 March 2017 and registered on the same day ([Annex 3](#))

[E-mail message sent to access@consilium.europa.eu on 18 February 2017- 00:02]

From: Rachael Tackett <ask+request-4003-b1e05110@asktheeu.org>

Sent: Saturday, February 18, 2017 00:02

To: SECRETARIAT DGF Access

Subject: access to documents request - Request for Privacy Shield Records

Dear Council of the EU,

Under the right of access to documents in the EU treaties, as developed in Regulation 1049/2001, I am requesting documents which contain the following information:

I request all reports, correspondence, and memorandum on the Privacy Shield framework. I would like to you search for records from October 1, 2015 to the present.

I request to be provided these records free of charge, because it is in the public interest to release these records. If any part of this request is denied, I request to be informed of the decision and the reason why.

Thank you,

Rachael Tackett

This is a request for access to information under Article 15 of the TFEU and, where applicable, Regulation 1049/2001 which has been sent via the AsktheEU.org website.

Please kindly use this email address for all replies to this request: ask+request-4001-b45b256f@asktheeu.org

If Access@consilium.europa.eu is the wrong address for information requests to Council of the EU, please tell the AsktheEU.org team on email team@asktheEU.org

This message and all replies from Council of the EU will be published on the AsktheEU.org website. For more information see our dedicated page for EU public officials at <https://www.asktheeu.org/en/help/officers>



Council of the European Union

General Secretariat

Directorate-General Communication and Information

Knowledge Management

Transparency

Head of Unit

Brussels, 14 March 2017

Ms Rachael Tackett

Email: ask+request-4001-b45b256f@asktheeu.org

Ref. 17/0375-ws/jj

Request made on: 18.02.2017

Registered on: 20.02.2017

Deadline extension: 13.03.2017

Dear Ms Tackett,

Thank you for your request for access to documents of the Council of the European Union.¹

We have identified the following documents, which can be released, as covered by your request:

9698/16	8521/16	6651/16
CM 1276/16	13819/15	6803/14
17069/13	13440/13	8146/07

You will find them enclosed.

¹ 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).

In addition, we have identified an internal GSC note of 22 October 2015 to the Secretary-General on the issue of *safe harbour*.

I regret to inform you that access to this latter document cannot be given for the reasons set out below.

This document contains internal information and assessments concerning negotiations with the United States of America on this issue. Its release would prejudice relations with the USA and weaken the EU's position vis-à-vis that country.

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.²

You can ask the Council to review this decision within 15 working days of receiving this reply (confirmatory application).³

Yours sincerely,

Fernando PAULINO PEREIRA

Enclosures

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

³ 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 on 23 March 2017- 13:12]

From: Rachael Tackett <ask+request-4003-b1e05110@asktheeu.org>

Sent: Thursday, March 23, 2017 13:12

To: SECRETARIAT DGF Access

Subject: Internal review of access to documents request - Request for Privacy Shield Records

Dear Council of the EU,

Please pass this on to the person who reviews confirmatory applications.

I am filing the following confirmatory application with regards to my access to documents request 'Request for Privacy Shield Records'.

The Council of the EU is illegally withholding access to a public document. The public document is mentioned in the Secretariat General's letter dated 14 March 2017. The public document in question is GSC note 22, dated 22 October 2015 to the Secretariat General on the issue of safe harbour. The Secretariat General is claiming that the release of this GSC note 22 would undermine the public interest as regards to international relations.

Release of this public document, GSC note 22, is in the public interest. The public has a right to know the details of negotiations between the US and the EU on the issue of safe harbour. The issue of safe harbour, data transfers from the EU to the US, deals with people's fundamental rights under the European Charter of Fundamental Rights of the EU. The public has a right to know the EU's position and its negotiations with the US in the protection of personal data, which is a guaranteed fundamental right under Article 8 of the European Charter of Fundamental Rights of the EU.

A full history of my request and all correspondence is available on the Internet at this address:

https://www.asktheeu.org/en/request/request_for_privacy_shield_recor_2

Yours faithfully,

Rachael Tackett

Please use this email address for all replies to this request:

ask+request-4001-b45b256f@asktheeu.org

This message and all replies from Council of the EU will be published on the AsktheEU.org website. For more information see our dedicated page for EU public officials at

<https://www.asktheeu.org/en/help/officers>