



Council of the
European Union

Brussels, 26 April 2017
(OR. en)

6658/1/17
REV 1

INF 24
API 20

NOTE

From: General Secretariat of the Council
To: Working Party on Information

No. prev. doc.: 6657/17

Subject: Public access to documents
- Confirmatory application No 03/c/01/17

Delegations will find enclosed a draft reply from the Council to confirmatory application No 03/c/01/17, as adopted by the Council by written procedure on which ended on 26 April 2017 with France voting against.

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

The annex is available in English only.

DRAFT
REPLY ADOPTED BY THE COUNCIL ON ...
TO CONFIRMATORY APPLICATION 03/c/01/17,
made by email on 23 February 2017,
pursuant to Article 7(2) of Regulation (EC) No 1049/2001,
for public access to documents ST 5151/1/17 REV1 and to "all correspondence, documents
and information, related to this legal analysis"

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 referred to as "Regulation No 1049/2001") and Annex II to the Council's Rules of Procedure (Council Decision 2009/937/EU, Official Journal L 325, 11.12.2009, p. 35) and has come to the following conclusion:

1. The applicant requests document 5151/1/17 REV1 which contains a contribution of the Legal Service of the Council concerning the possible Council participation to the Inter-Institutional Agreement between the European Parliament and the European Commission on the transparency register for organisations and self-employed individuals engaged in EU policy-making and policy implementation.
2. In its reply dated 23 February 2017, the General Secretariat granted partial access to this document.
3. In the confirmatory application dated 23 February 2017, the applicant asks the Council to reconsider this position since he considers the refusal to release the document to be overly broad.

4. The Council has carefully considered the confirmatory application. Having thoroughly examined the requested document concerned by the request and carried out renewed consultations, it has re-assessed the request for access in full consideration of the principles underlying Regulation No 1049/2001, the aim of ensuring the widest possible public access to documents.
5. In so doing the Council has carefully scrutinized the content of the document, having due regard to the current state of play on negotiations in the Council's preparatory bodies related to the Commission proposal on the aforementioned Inter-Institutional Agreement. In that context, the Council took also into account the information that has already been made available on this matter and the need to avoid misrepresentations of the Legal Service opinion and of the ongoing debate in Council.
6. Having thoroughly examined the document concerned, the Council has therefore come to the conclusion that there is an overriding public interest to grant full public access to the requested document.
7. The Council confirms that no other documents related to the legal analysis in document 5151/1/17 REV1 are available.
8. The Council notes, however, that the present positive decision is based on the exceptional circumstances of this concrete confirmatory application concerned and the specific requested document and that it can under no circumstances constitute a precedent for the future, since each application shall be assessed and judged on its own merit, pursuant to the established practice of the Council.