



**Brussels, 28 April 2017
(OR. en)**

**EUCO 7/1/17
REV 1**

**INF 71
API 54**

NOTE

From: President of the European Council
To: European Council
No. prev. doc.: 7635/17
Subject: Public access to documents
- Confirmatory application No 07/c/01/17

The draft reply to confirmatory application No 07/c/01/17 for public access to documents was unanimously endorsed by the European Council on 27 April 2017.

The majority of the members of the European Council (having the right to vote) agreed to publish the result of the vote.

The annex is available in English only.

DRAFT
REPLY ADOPTED BY THE EUROPEAN COUNCIL ON
TO CONFIRMATORY APPLICATION 07/c/01/17,
made by email on 22 March 2017,
pursuant to Article 7(2) of Regulation (EC) No 1049/2001,
for public access to documents related to the "Privacy Shield"

The European 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 No 1049/2001") and Article 10(2) of its Rules of Procedure (European Council Decision No 2009/882/EU, OJ L 315, 2.12.2009, p. 51) which makes Annex II to the Council's Rules of Procedure (Council Decision 2009/937/EU, Official Journal L 325, 11.12.2009, p. 35) applicable *mutatis mutandis* and has come to the following conclusion:

1. On 18 February 2017 the applicant filed an initial application with the European Council for access to "*all reports, correspondence, and memorandum on the Privacy Shield framework... from October 1, 2015 to the present*".
2. On 14 March 2017, the General Secretariat replied to this application on behalf of the European Council, informing the applicant that it did not hold any documents covered by the application (ref. 17/0376-ws/jj).
3. On 22 March 2017, the applicant filed a confirmatory application against this reply, challenging the assertion that the European Council does not hold any documents covered by the application.

4. It should be noted that the applicant made an identical application addressed to the Council of the European Union, equally on 18 February 2017. The General Secretariat replied to this application on 14 March 2017 on behalf of the Council as well, releasing nine documents and withholding one (ref. 17/0375-ws/jj). This latter refusal is subject to a distinct confirmatory application of 23 March (08/c/02/17), addressed to the Council. The present reply of the **European Council** is not concerned with confirmatory application 08/c/02/17, which is treated separately by the Council of the European Union.
5. Based on the applicant's confirmatory application of 22 March 2017 and although the matter of the Privacy Shield has not been treated by it, the **European Council** has again thoroughly verified whether it holds any documents covered by the initial and confirmatory application.
6. It has identified a letter of 29 January 2016 from the International Chamber of Commerce to the President of the **European Council** and a reply letter by the President's Cabinet of 15 February 2016.
7. The applicant may have access to these two documents. The **European Council** does not hold any other document concerned by her application.