



Council of the
European Union

Brussels, 19 September 2017
(OR. en)

12276/17

INF 155
API 109

NOTE

From: General Secretariat of the Council
To: Working Party on Information
Subject: Public access to documents
- Confirmatory application No 20/c/01/17

Delegations will find attached the:

- request for access to documents sent to the General Secretariat of the Council on 11 July 2017 and registered on 12 July 2017 ([Annex 1](#));
- reply from the General Secretariat of the Council dated 25 August 2017 ([Annex 2](#));
- confirmatory application dated 15 September 2017 and registered on 18 September 2017 ([Annex 3](#))

[E-mail message sent to access@consilium.europa.eu on 11 July 2017 - 17:17]:

From: Andreas Pavlou [mailto:ask+request-**DELETED**@asktheeu.org]

Sent: Tuesday, July 11, 2017 5:17 PM

To: SECRETARIAT DGF Access

Subject: access to documents request - Informal Inter-institutional Meeting on Regulation
1049/2001

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 the following documents relating to the GSC initiative for an informal interinstitutional forum on the application of Regulation 1049/2001 held on 28 March 2017:

- inter-institutional correspondence about the meeting, including invitations and replies to attend as well as any followup emails after the meeting
- list of participants and institutions or bodies represented at the meeting
- agenda and minutes of the meeting, outcome of proceedings, and any support documents used in the meeting
- any reports or feedback to the working party on information

Yours faithfully,

Andreas Pavlou



Council of the European Union

General Secretariat

Directorate-General Communication and Information

Knowledge Management

Transparency

Head of Unit

Brussels, 25 August 2017

Mr Andreas Pavlou

Email: ask+request-**DELETED**@asktheeu.org

Ref. 17/1631-ws/ns

Request made on: 11.07.2017

Registered on: 12.07.2017

Deadline extension: 03.08.2017

Dear Mr Pavlou,

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

The forum you refer to was a very informal gathering at administrative services level, and no supporting documents have been issued.

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).

Nevertheless, the following documents have been identified as covered by your request:

- document 8142/17 (see item 2, g)
- the invitation letters (including the agenda)
- an annotated agenda
- emails confirming participation (in the case of the Court of Justice, no such email is on file, and the email with which the invitation letter was sent has been kept instead)
- the participants list

Please find attached document 8147/17 and the annotated agenda.

You will also find partially accessible versions of the other documents.² However, I regret to inform you that full access cannot be given for the reasons set out below.

These documents contain personal data about identified persons (participants and/or correspondents). The personal data contained in these documents is necessary for the organisation of the work of the Council.

Data protection rules at EU level³ provide that when the personal data collected is to be used for a different purpose, including disclosure to the public, a balance needs to be established between the public interest in having access to such data and the legitimate right of individuals to protect their personal data.⁴ These data protection rules also provide that individuals have the right to be informed and to object to the publication of their personal data.⁵

² Article 4(6) of Regulation (EC) No 1049/2001.

³ Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ L 8, 12.1.2001, p. 1).

⁴ Article 8 of Regulation (EC) No 45/2001.

⁵ Article 18 of Regulation (EC) No 45/2001.

The General Secretariat of the Council has consulted the identified persons whose personal data can be found in the documents. After carefully considering all the principles related to this request, on balance the General Secretariat has concluded that you cannot have access to information about individuals who have not agreed to the publication of their personal data. Disclosure of that data would undermine the protection of privacy and the integrity of those individuals.⁶

You can ask the Council to review this decision within 15 working days of receiving this reply (confirmatory application).⁷

Yours sincerely,

Fernando PAULINO PEREIRA

Enclosures

⁶ Article 4(1)(b) of Regulation (EC) No 1049/2001.

⁷ 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 15 September 2017 -19:33]:

From: Andreas Pavlou [mailto:ask+request-**DELETED**@asktheeu.org]

Sent: Friday, September 15, 2017 7:33 PM

To: SECRETARIAT DGF Access

Subject: Internal review of access to documents request - Informal Inter-institutional Meeting on Regulation 1049/2001

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 'Informal Inter-institutional Meeting on Regulation 1049/2001'.

You state that the data redacted is information that contains "personal data about identified persons (participants and/or correspondents). "

You then state that "Data protection rules at EU level provide that when the personal data collected is to be used for a different purpose, including disclosure to the public, a balance needs to be established between the public interest in having access to such data and the legitimate right of individuals to protect their personal data. These data protection rules also provide that individuals have the right to be informed and to object to the publication of their personal data. "

"The General Secretariat of the Council has consulted the identified persons whose personal data can be found in the documents. After carefully considering all the principles related to this request, on balance the General Secretariat has concluded that you cannot have access to information about individuals who have not agreed to the publication of their personal data. Disclosure of that data would undermine the protection of privacy and the integrity of those individuals. "

I contend that the names of the individuals will not undermine their privacy and integrity, as they are public officials, representing the institution in which they work, on public business - that is, the implementation of Regulation 1049/2001, which regulates a fundamental right contained in the EU Treaties. As such, they are accountable to the public, and the public should know who (in particular, those who carry out a public function) attends these meetings. Despite being a 'informal meeting', the individuals were attending not in their private capacity, but as public officials representing their institutions on public business.

I therefore ask you reconsider the redaction of the names of those public officials in the documents provided, with a view to fully publishing those names.

A full history of my request and all correspondence is available on the Internet at this address:
https://www.asktheeu.org/en/request/informal_inter_institutional_mee

Yours faithfully,

Andreas Pavlou
