



Council of the
European Union

Brussels, 2 July 2014

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API 70

NOTE

From : General Secretariat of the Council
To : Working Party on Information
Subject: Public access to documents
- Confirmatory application No 17/c/01/14

Delegations will find attached:

- request for access to some documents sent to the General Secretariat of the Council on 11 April 2014, registered on the same day ([Annex 1](#)).
- first reply from the General Secretariat of the Council dated 8 May 2014 and second reply dated 2 June 2014 ([Annex 2](#))
- confirmatory application dated 16 June 2014 and registered the same day ([Annex 3](#)).

[E-mail sent to access@consilium.europa.eu using the electronic form available in the Register application on 11 April 2014 - 1:40 pm]

Family Name: **DELETED**

First Name: **DELETED**

E-Mail: **DELETED**

Occupation: **DELETED**

On behalf of: **DELETED**

Address: **DELETED**

Telephone: **DELETED**

Requested document(s):

Dear Sir/Madam,

I would like to receive a copy of the Work Programme of the Code of Conduct Group on Business taxations under the following presidencies:

Greek presidency, work programme referred to in document **CM 1188/14**

Lithuania, referred to in document **CM 3907/13**

Ireland, referred to in document **CM 1138/13**

Cyprus, referred to in document **CM 4090/12**

Denmark, referred to in document **CM 1202/12**

I would also like to receive a information about who the current members of the code of conduct group are. If such document is not available then I would like to receive a list of participants/invitees to the meetings referred to in docs **CM 1188/14** and **CM 3907/13**. If such documents do not exists, then I would like to receive a list of accredited people for the meetings referred to in doc **CM 1188/14** and **CM 3907/13**.

I thank you very much in advance for your reply.



**COUNCIL OF
THE EUROPEAN UNION**

GENERAL SECRETARIAT

*Directorate-General F
Communication
Transparency*

*- Access to Documents/
Legislative transparency*

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B - 1048 BRUSSELS
Tel: (32 2) 281 67 10
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E-MAIL:
access@consilium.europa.eu

Brussels, 8 May 2014

DELETED

e-mail:

DELETED

Ref. 14/0686-mj/ns

Dear Mr Pereira,

We have registered your request of 11 April 2014 for access to a copy of the Work Programme of the Code of Conduct Group on Business taxations under the Greek, Lithuanian, Irish, Cypriot and Danish presidencies as well as the current list of members of the code of conduct group. Thank you for your interest.

The General Secretariat of the Council has examined your request on the basis of Regulation (EC) No 1049/2001 of the European Parliament and of the Council regarding public access to European Parliament, Council and Commission documents¹ and specific provisions of the Council's Rules of Procedure² and has come to the following conclusion:

The Lithuanian Presidency work programme is contained in document **16656/13**.

The Irish Presidency work programme is contained in document **11465/13**.

The Cypriot Presidency work programme is contained in document **16488/12**.

The Danish Presidency work programme is contained in document **10903/12**.

¹ Official Journal L 145, 31.5.2001, p. 43.

² Annex II to the Council's Rules of Procedure – Council Decision No 2009/937/EU; Official Journal L 325, 11.12.2009, p. 35.

These documents are public and are directly available via the Council's public register at the following address : <http://register.consilium.europa.eu>

The report containing the Hellenic Presidency work programme will be issued in June 2014.

Regarding the second part of your request (i.e. the list of members of the code of conduct group), the necessary consultations are still in progress and you will be notified of a decision as soon as possible.

Yours sincerely,

For the General Secretariat

Jakob Thomsen



**COUNCIL OF
THE EUROPEAN UNION**

GENERAL SECRETARIAT

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Brussels, 2 June 2014

Mr Javier Pereira

e-mail:

javier.pereira@actionaid.org

Ref. 14/0686-ADD-mj/ns

Dear Mr Pereira,

Further to the letter sent to you on 8 May 2014 regarding your request for access, the General Secretariat of the Council has now finished the examination of this request on the basis of Regulation (EC) No 1049/2001 of the European Parliament and of the Council regarding public access to European Parliament, Council and Commission documents¹ and specific provisions of the Council's Rules of Procedure² and has come to the following conclusion:

The General Secretariat of the Council does not hold a list of current members of the code of conduct group as such. Therefore, as mentioned in your request, the General Secretariat of the Council has considered that you requested access to the lists of participants of the Code of Conduct Group to the meetings of 11 September 2013 and 27 January 2014.

These lists contain personal data on participants in a meeting which have been compiled for internal administrative purposes. Pursuant to Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of

¹ Official Journal L 145, 31.5.2001, p. 43.

² Annex II to the Council's Rules of Procedure – Council Decision No 2009/937/EU; Official Journal L 325, 11.12.2009, p. 35.

individuals with regard to the processing of personal data by the European institutions and bodies and on the free movement of such data, data of this kind may not be published without the consent of the individuals concerned. Under these circumstances, and in accordance with the provisions of Article 4(1)(b) of the Regulation (protection of the privacy and the integrity of the individual), the General Secretariat is unable to grant you access to those parts of the lists which contain data of individuals who did not give their consent to disclose their personal data.

Nevertheless, you will find herewith two documents containing the data of the individuals who agreed to disclose them.

Statutory remedy notice

Pursuant to Article 7(2) of the Regulation, you may submit a confirmatory application requesting the Council to reconsider this position, within 15 working days of receiving this reply¹.

Yours sincerely,

For the General Secretariat

Jakob Thomsen

Enclosures

¹ Confirmatory applications are published in the Council's Register of documents. If you introduce a confirmatory application, your personal data will be published in the documents related to your confirmatory application only if you have given your explicit consent for this. Your reply relating to the publication of your personal data will in no way prejudice your rights under Regulation (EC) No 1049/2001.

[Confirmatory application - sent by e-mail on 16 June 2014 - 12:25 pm]

From: DELETED

Sent: Monday, June 16, 2014 12:25 PM

To: SECRETARIAT DGF Access

Subject: Confirmatory application Ref. 14/0686-mj/ns & 14/0686-ADD-mj/ns

Importance: High


Attn. Mr. Jakob Thomsen

Dear Mr Jakob Thomsen,

Please, find attached DELETED confirmatory application (ref Ref. 14/0686-mj/ns & 14/0686-ADD-mj/ns).

Yours sincerely,

DELETED



Attn. Mr. Jakob Thomsen
GENERAL SECRETARIAT
Directorate-General F
Communication
Transparency

Access to Documents/
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Brussels June 13th, 2014

Ref. 14/0686-mj/ns and 14/0686-ADD-mj/ns

Dear Mr. Thomsen,

I sincerely appreciate the effort made by the General Secretariat to provide answers to my information disclosure request. Unfortunately, I do not consider your reply fully responds to my request and would like to present a confirmatory application and request the Council to reconsider its position, pursuant to Article 7(2) of the Regulation of the European Parliament and of the Council regarding public access to European Parliament, Council and Commission documents and specific provisions of the Council's Rules of Procedure.



1. Regarding the letter with reference 14/0686-mj/ns, dated on 8 May 2014, I think the documents you mention only provide a partial answer to my request. In the letter, you mention that:

*"The Lithuanian Presidency work programme is contained in document 16656/13.
The Irish Presidency work programme is contained in document 11465/13.
The Cypriot Presidency work programme is contained in document 16488/12.
The Danish Presidency work programme is contained in document 10903/12."*

And that *"The report containing the Hellenic Presidency work programme will be issued in June 2014."*

All these documents are reports submitted by the Code of Conduct Group to the Council at the end of each presidency. The summary contained therein cannot be considered as a work plan as it contains only cursory allusions to future work.

The Resolution of the Council and the Representatives of the Governments of the Member States, meeting within the Council of 1 December 1997 on a code of conduct for business taxation mentions that: *"The group, which will meet regularly, will select and review the tax measures for assessment in accordance with the provisions laid down in paragraphs E to G."* Document SN 4901/99 also explains the existence of a complex process to assess and select a number of topics to work on. This implies the existence of a long term working plan that expands beyond the



six-month presidencies of the EU. There is additional evidence that suggest the existence of a long term work plan. Document CM 1981/14 and others mention the existence of a "Work Package 2011". According to document CM 2247/12, the "Work Package 2011" addresses five different areas.

Based on this information, **I would like to request access to existing forward looking work plans for the Greek and Italian Presidencies as well as any existing longer term work plans, including but not restricted to the abovementioned "Work Package 2011".**

2. Regarding the letter with reference 14/0686-ADD-mj/ns, dated on 2 June 2014, I welcome the information provided by the General Secretariat, but find the reply unsatisfactory for a number of reasons.

Firstly, the available rules of procedure indicate that members of the Code of Conduct group are appointed both by Member States and the Commission. More precisely, the Resolution of the Council and the Representatives of the Governments of the Member States, meeting within the Council of 1 December 1997 on a code of conduct for business taxation states that: "The Council invites each Member State and the Commission to appoint a high-level representative and a deputy to this group, which will be chaired by a representative of a Member State."

As a consequence, I believe a better answer to my question could be found in the list of appointed representatives, rather than the attendance list shared by the Secretariat. Part of this information has been made public before. Document SN4901/99 contains the names of various chairs and co-chairs appointed to the group.

Secondly, if there is no official list of appointed representatives, then I must understand in the light of the procedures mentioned above that the lists of participants contains the names of officials appointed by their member states to the Code of Conduct Group. **I would like to exert the right to know their names**, excluding any other personal data such as email addresses, on the basis that these public officials are dealing with matters of public interest. Moreover, existing EU regulations require that the right to protection of personal data is analysed in conformity with the right to know and establishes a specific regime where personal data may be communicated to the public (see for example, Court of Justice, T-161/04 - Valero Jordana v Commission).

I thank you very much in advance for your reply and look forward to hearing from you.

Yours sincerely,

