



Council of the  
European Union

Brussels, 9 October 2014

13559/14

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API 110

**NOTE**

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From: General Secretariat of the Council  
To: Working Party on Information  
Subject: Public access to documents  
- Confirmatory application No 29/c/01/14

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Delegations will find attached:

- request for access to documents sent to the General Secretariat of the Council on 10 June 2014 and registered on the same day ([Annex 1](#))
- reply from the General Secretariat of the Council dated 17 September 2014 ([Annex 2](#))
- confirmatory application dated 23 September 2014 and registered the same day ([Annex 3](#)).

[E-mail message sent to [access@consilium.europa.eu](mailto:access@consilium.europa.eu) on 10 June 2014 - 12:09 pm using the electronic form available in the Register application]

**From:** **DELETED**

**Sent:** Tuesday, June 10, 2014 2:13 PM

**To:** SECRETARIAT DGF Access

**Subject:** Electronic Request for Access

Title/Gender: Mr

Family Name: **DELETED**

First Name: **DELETED**

E-Mail: **DELETED**

Occupation:

On behalf of:

Address: **DELETED**

Telephone: **DELETED**

Mobile: **DELETED**

Requested document(s): Sir/Madam,

Dear Sir/Madam,

My name is **DELETED**. My PhD focuses on the role of the European Council in shaping the EU's response to the financial crisis. As part of my research, I wish to analyse the negotiations that took place during the meetings of the 'Task Force' which was set up by the President of the European Council to strengthen economic governance across the EU in 2010. I am therefore looking for all documents, where available, from six meetings that the 'Task Force' held on the 21 May 2010, 7 June 2010, 12 July 2010, 6 September 2010, 27 September 2010 and 18 October 2010. I am also looking for all documents, where available, from seven meetings of the 'SHERPA Task Force Committee' held on 1 June 2010, 23 June 2010, 5 July 2010, 30 August 2010, 21 September 2010, 5 October 2010 and 12 October 2010. Finally I am looking for the contributions of the Member States and Institutions to the 'Task Force'. The submission dates by Member States are as follows, Austria (31/05/10), Bulgaria (1/06/10), Cyprus (11/10/10), Denmark (27/08/10), Estonia (5/07/10),

Finland (2/06/10), France (22/07/10), Germany (20/05/10; 22/07/10; 23/09/10), Italy (5/07/10), Luxembourg (10/06/10), Netherlands (29/05/10), Poland (31/05/10), Romania (1/06/10), Slovakia (2/06/10), Slovenia (2/06 and 7/07/10), Sweden (3/06/10) and United Kingdom (9/07/10). The submission dates by institutions is as follows, ECB (10/06/10) and European Commission (17-18-29-30/06/10).

Your help in this matter is much appreciated.

Many thanks,

**DELETED**



**Council of the European Union**  
General Secretariat

Directorate-General Communication and Document Management  
Directorate Document Management  
Transparency and Access to Documents Unit

E-mail: **DELETED**  
**DELETED**

Brussels, 17 September 2014

**Ref. 14/1028-ws/dm**

Dear **DELETED**,

We have registered your request of 10 June 2014 for access to:

- 1) documents from six meetings that the 'Task Force' held on the 21 May 2010, 7 June 2010, 12 July 2010, 6 September 2010, 27 September 2010 and 18 October 2010;
- 2) documents from seven meetings of the 'SHERPA Task Force Committee' held on 1 June 2010, 23 June 2010, 5 July 2010, 30 August 2010, 21 September 2010, 5 October 2010 and 12 October 2010;
- 3) the contributions of the Member States and Institutions to the 'Task Force'.

Thank you for your interest.

Given that the Task Force and the Sherpa Committee were set up by the European Council, the General Secretariat of the Council has treated your request as being addressed to the European Council, thus acting as secretariat for the European Council pursuant to Article 235(4) of the Treaty on the Functioning of the European Union; it has therefor 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 documents<sup>1</sup> (hereafter the "Regulation") and specific provisions of the European Council's Rules of Procedure<sup>2</sup>.

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<sup>1</sup> Official Journal L 145, 31.5.2001, p. 43.

<sup>2</sup> Article 10(2) of the European Council's Rules of Procedure (European Council Decision 2009/882/EU; Official Journal L 315 of 2.12.2009, p. 51) makes Annex II to the Council's Rules of Procedure (Council Decision No 2009/937/EU; Official Journal L 325, 11.12.2009, p. 35) applicable mutatis mutandis.

On 1 July 2014, you were informed that it would not be possible to treat your request within the normal time-limits. At the same time, 23 documents concerning part 3 of your request were sent to you. Having examined the request, the General Secretariat has come to the following conclusion:

Concerning parts 1 and 2 of your request, as mentioned above, the following documents have been identified:

DS 1298 2010 INIT  
DS 1390 2010 INIT  
DS 1424 2010 INIT  
DS 1446 2010 INIT  
DS 1468 2010 INIT  
DS 1498 2010 INIT  
DS 1550 2010 INIT  
DS 1608 2010 INIT  
DS 1609 2010 INIT  
DS 1631 2010 INIT  
DS 1632 2010 INIT  
DS 1650 2010 INIT  
DS 1680 2010 INIT  
DS 1689 2010 INIT  
DS 1690 2010 INIT  
DS 1700 2010 INIT  
DS 1701 2010 INIT

You may have access to these documents.

Concerning part 3 of your request, in addition to the 23 documents sent to you on 1 July 2014, the following documents have been identified:

- German contribution of 24 September 2010
- Romanian contribution of 1 June 2010

Having been consulted by the General Secretariat, the German and Romanian authorities have argued that release of the specific comments contained in their respective contributions would severely affect future decision-making issues of the same kind. They indeed contain opinions that were put forward for internal use only, as part of deliberations and preliminary consultations within the Task Force and the Sherpa Committee. Taking into account the delegations' arguments, the General Secretariat has come to the conclusion that release of these documents would seriously undermine the decision-making process within the European Council and its preparatory bodies. As there is no evidence suggesting an overriding public interest to warrant disclosure of the documents in question, the General Secretariat has concluded that protection of the decision-making process outweighs the

public interest in disclosure.

Accordingly, pursuant to Article 4(3), of the Regulation (protection of the decision-making process), the General Secretariat is unable to accede to your request for access to these two documents at this stage.

The General Secretariat has also looked into the possibility of disclosing parts of the documents pursuant to Article 4(6) of the Regulation. However, as the information contained in each of the documents forms an inseparable whole, partial access cannot be granted either at present.

#### Statutory remedy notice

Pursuant to Article 7(2) of the Regulation, you may submit a confirmatory application requesting the **European Council** to reconsider this position, within 15 working days of receiving this reply<sup>1</sup>.

Yours sincerely,

For the General Secretariat

Jakob Thomsen

Enclosures

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<sup>1</sup> 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.

[E-mail message sent to [access@consilium.europa.eu](mailto:access@consilium.europa.eu) on 23 September 2014 - 2:45 pm]

**From:** **DELETED**

**Sent:** Tuesday, September 23, 2014 2:45 pm

**To:** SECRETARIAT DGF Access

**Subject:** Confirmatory application for access to Council documents Ref. 14/1028-ws/dm

Dear Mr Thomsen,

Please find enclosed a confirmatory application for access to Council documents Ref. 14/1028-ws/dm.

Yours Sincerely, **DELETED**

**DELETED**

22 September 2014

Mr Jakob Thomsen  
Head of Unit, Access to Documents and Legislative Transparency  
General Secretariat of the Council of the European Union  
Rue de la Loi 175/Wetstraat 175  
1048 Bruxelles/Brussel  
Belgique

Subject: Confirmatory application for access to Council documents Ref. 14/1028-ws/dm

Dear Sir,

Pursuant to Article 7(2) of Regulation 1049/2001, I hereby would like to make a confirmatory application for two documents, the German contribution of 24 September 2010 and the Romanian contribution of 1 June 2010 to the European Council's 'Task Force' on economic governance, which fall into part three of my request for documents Ref. 14/1028-ws/dm. On the 17 September I received a number of documents that I had requested along with a letter outlining why the Council was unable to release the German and Romanian contributions to the 'Task Force'. The letter stated that:

the release of these documents would seriously undermine the decision-making process within the European Council and its preparatory bodies. As there is no evidence suggesting an overriding public interest to warrant disclosure of the documents in question, the General Secretariat has concluded that protection of the decision-making process outweighs the public interest in disclosure.



However according to Article 4(3) of Regulation No 1049/2001 documents can only be denied “where the decision has not been taken by the institution”. Yet the European Council, as a whole, signed off on the recommendations by the ‘Task Force’. See report entitled ‘Strengthening Economic Governance in the EU’. Further those recommendations were the basis for two legislative packages known as the ‘Sixpack’ and ‘Two-pack’, which were approved by the Council of Ministers and European Parliament. The argument put forward that the “protection of the decision-making process outweighs the public interest in disclosure” is not valid either. If we are to understand how the ‘Task Force’ arrived at its recommendations, then there is a need to know all of the arguments that were put forward by every member state delegation. As those recommendations helped to shape the EU’s response to the financial crisis, thus impacting on the lives of citizens across the union, the public interest in knowing how the decisions to fight the crisis were made outweigh the “protection of the decision-making process”.

With this application, I invite the Council to review its position and grant me full access to the documents requested.

Looking forward to your response.

Yours Sincerely,

**DELETED**

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