



Brussels, 12 June 2015
(OR. en)

9042/15

INF 87
API 50

NOTE

From: General Secretariat of the Council
To: Working Party on Information
Subject: Public access to documents
- Confirmatory application No 11/c/01/15

Delegations will find attached:

- request for access to documents sent to the General Secretariat of the Council on 5 January 2015 and registered on the same day ([Annex 1](#));
- first reply from the General Secretariat of the Council dated 16 February 2015 ([Annex 2](#));
- exchange of emails between the applicant and the General Secretariat of the council dated 16 March 2015 and 7 April 2015 ([Annex 3](#));
- second reply from the General Secretariat of the Council dated 5 May 2015 ([Annex 4](#));
- confirmatory application dated 16 May 2015 and registered on 18 May 2015 ([Annex 5](#))

[E-mail message sent to access@consilium.europa.eu on 5 January 2015 - 4:05 PM using the electronic form available in the Register application]

From: **DELETED**

Sent: Monday 5 January 2015 - 04:05 pm

To: SECRETARIAT DGF Access

Subject: Electronic Request for Access

Title/Gender: **DELETED**

Family Name: **DELETED**

First Name: **DELETED**

E-Mail: **DELETED**

Occupation: **DELETED**

Address: **DELETED**

Telephone: **DELETED**

Mobile: **DELETED**

Requested document(s):

Dear Sir, I am a PhD student writing a thesis on banking union and the collapse of the Cypriot banking system in March 2013. To enable me to complete my research, I would be very grateful if you would grant me access to the minutes of the meetings listed below in accordance with Regulation No 1049/2001 of the European Parliament and of the Council, the judgment of the Court of Justice of the European Union of 3 July 2014 in case C-350/12 P on appeal in Council of the European Union v Sophie in't Veld, applicant at first instance, and the guidelines of the European Ombudsman, in particular because: In principle, all documents of the institutions should be accessible to the public.

In order to ensure the full application of Regulation No 1049/2001 to all activities of the Union, all agencies established by the institutions should apply it, all the more so the institutions themselves. In order to bring about greater openness in the work of the institutions, access to documents should be granted not only to documents drawn up by the institutions, but also to documents received by them. If only parts of the requested document are covered by any of the exceptions to the right of access, the remaining parts of the document shall be released. If an institution decides to refuse access to a document it must explain how disclosure of that document could specifically and actually undermine the interest protected by the exceptions under Article 4 of Regulation (EU) No 1049/2001 and, in any event, that risk of the interest being undermined must be reasonably foreseeable and not purely hypothetical (Council v Access Info Europe, EU:C:2013:671, paragraph 31 and the case-law cited there). It is not sufficient for a document to relate to an interest protected by an exception to the right of access (Article 4 of Regulation (EU) No 1049/2001) in order to justify refusal of access to it (Commission v Editions Odile Jacob, C-404/10P, EU:C:2012:393, paragraph 116). Since, even though a Member State has the discretion to request an institution not to disclose a document originating from it without its prior agreement, ultimately it is the relevant institution that is responsible for deciding whether or not to grant access to the document, weighing the interest protected under Article 4 of the abovementioned Regulation against the fact that access to documents of the institutions and, consequently, transparency, enables citizens to participate more closely in the decision-making process and guarantees that the administration enjoys greater legitimacy and is more effective and accountable to the citizens in a democratic system (Council v Access Info Europe, EU:C:2013:671, paragraph 32, and the case-law cited there).

In any event, the right to good administration is enshrined in Article 41 of the Charter of Fundamental Rights of the EU. The right to good administration results, in particular, in the obligation of the administration to give reasons for its decisions. For the above reasons I hereby request that I be granted access to the minutes of the following meetings of the Ministers for Economic and Financial Affairs of the euro area (Eurogroup), the Heads of State or Government of the euro area (Euro Summit), the Council of Ministers for Economic and Financial Affairs (ECOFIN) and the European Council:

The dates of the meetings of the Ministers for Economic and Financial Affairs of the euro area (Eurogroup) for which I request the minutes are:

8 December 2014
8 July 2014
13 October 2014
19 June 2014
10 June 2014
5 May 2014
23 April 2014
1 April 2014
18 December 2013
17 December 2013
9 December 2013
22 November 2013
13 September 2013
20 June 2013
13 May 2013
12 April 2013
25 March 2013
21 March 2013
16 March 2013
4 March 2013
24 February 2013
13 December 2012
3 December 2012
27 September 2012
12 September 2012
10 July 2012
9 July 2012
27 June 2012
30 March 2012

I also request the minutes of the meetings of the Heads of State or Government of the euro area (Euro Summit) of 12 October 2008 and 29 June 2012.

The dates of the meetings of the Ministers for Economic and Financial Affairs (ECOFIN) for which I request the minutes are:

9 December 2014
14 October 2014
8 July 2014
20 June 2014
6 May 2014
11 March 2014
18 February 2014
28 January 2014
19 December 2013
10 December 2013
15 November 2013
26 and 27 June 2013
14 May 2013
5 March 2013
4 December 2012
15 May 2012
2 May 2012
17 November 2010
2 December 2009

The dates of the meetings of the European Council for which I request the minutes are:

23 October 2014

20 March 2014

19 and 20 December 2013

24 and 25 October 2013

27 and 28 June 2013

14 March 2013

13 December 2012

18 and 19 October 2012

28 June 2012

26 October 2011

23 June 2011

I would be most grateful if you could let me know by when I should receive a reply to my request.

Yours faithfully,

DELETED



Council of the European Union

General Secretariat

Directorate-General Communication and Document Management

Directorate Document Management

Transparency and Access to Documents Unit

Brussels, 16 February 2015

DELETED

Email: **DELETED**

Ref. 15/0040-ws/jj

Request made on: 5.1.2015
Date of receipt: 26.1.2015

Dear **DELETED**,

Thank you for your request for access to documents¹.

Please find attached the following documents:

ST 16699 2014 INIT	ST 5777 2014 ADD1	ST 16972 2009 INIT
ST 16699 2014 ADD1	ST 17636 2013 ADD1	ST 16972 2009 COR3
ST 14284 2014 INIT	ST 16374 2013 INIT	ST 171 2014 INIT
ST 14284 2014 ADD1	ST 16374 2013 ADD1	ST 9 2014 INIT
ST 11684 2014 INIT	ST 11420 2013 INIT	ST 9 2014 COR1
ST 11684 2014 ADD1	ST 11420 2013 AD1RE1	ST 218 2013 INIT
ST 11196 2014 COR1	ST 9506 2013 ADD1	ST 170 2013 INIT
ST 11196 2014 ADD1	ST 7415 2013 INIT	ST 105 2013 INIT
ST 11196 2014 AD1CO1	ST 7415 2013 ADD1	ST 24 2013 INIT
ST 9576 2014 INIT	ST 17294 2012 INIT	ST 206 2012 INIT

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).

ST 9576 2014 ADD1
ST 9576 2014 AD1CO1
ST 7533 2014 INIT
ST 7533 2014 ADD1
ST 6624 2014 INIT
ST 6624 2014 ADD1
ST 5777 2014 INIT

ST 17294 2012 ADD1
ST 9994 2012 INIT
ST 9994 2012 ADD1
ST 9677 2012 INIT
ST 9677 2012 ADD1
ST 16455 2010 INIT
ST 16455 2010 AD1RE1

ST 157 2012 INIT
ST 139 2012 INIT
ST 96 2011 INIT
ST 22 2011 INIT
ST 22 2011 COR1

However, the General Secretariat is still conducting consultations necessary to the examination of the remaining documents, and you will be notified of a decision as soon as possible.

Yours sincerely,

Jakob THOMSEN

Enclosures

[E-mail message sent to access@consilium.europa.eu on 16 March 2015 - 12:31 AM]

From: DELETED

Sent: Monday, March 16, 2015 12:31 AM

To: SECRETARIAT DGF Access

Subject: Ref. 15/0040-ws/jj

Dear Sir,

A month has passed since I received the draft minutes you sent me and I have still not received any news concerning the other documents referred to in my request of 3 January 2015, in particular the minutes of the meetings of the Eurogroup which I requested.

Please would you inform me as soon as possible of progress on my request of 3 January 2015, in particular the part concerning the minutes of the meetings of the Eurogroup.

I would also be very grateful if you would send me two documents I was unable to find on the internet, namely:

(a) 18134/13 EF 280 ECOFIN 1185 and (b) 15967/13 EF224 ECOFIN 998. These documents are mentioned in the draft minutes you sent me and I need them to complete my research.

I sincerely appreciate your efforts to fully satisfy my request.

Yours sincerely,

DELETED

[E-mail message sent to the applicant on 7 April 2015 - 10:19 AM]

Dear **DELETED**,

There are no real "minutes" from the meetings of the Eurogroup, but we have found "summing-up letters" which the President sends to the members after each meeting. Consultations concerning documents are still ongoing.

In the meantime, we are sending you published articles concerning the meetings in 2012 to which you may already have access. For 2014, we advise you to consult our website:

<http://www.consilium.europa.eu/el/meetings/eurogroup/> (Go to 1 January 2014 to see all meetings from that date onwards.)"

We also attach documents 18134/13 and 15967/13, which are public.

Yours sincerely,

Transparency and Access to Documents



General Secretariat of the Council

Directorate-General for Communication and Document Management

Document Management

Transparency and Access to Documents

Brussels, 5 May 2015

DELETED

Email: **DELETED**

Ref. 15/0040-ADD-ws/mf

Request made on: 5.1.2015
Date of receipt: 26.1.2015

Dear **DELETED**,

Following our messages of 16 February 2015 and 7 April 2015, we have now finalised the examination of your request.¹

Concerning documents **11196/14**, **17636/13** and **9506/13**, their annexes would not seem to be covered by the subject of your research. The annexes therefore have not been assessed, and you will find enclosed partially accessible versions covering the remaining parts of the documents.

As regards the "summing-up letters" for the Eurogroup meetings, the General Secretariat has to conclude – after having proceeded to all necessary consultations, and in particular of the European Commission and the President of the Eurogroup – that they contain internal information on discussions release of which would clearly undermine the protection of the financial, monetary or economic policy of the Union and its Member States, and that access to them must therefore be refused.²

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).

² Article 4(1)(a), fourth indent, of Regulation (EC) No 1049/2001.

We have also looked into the possibility of releasing parts of the documents.³ However, as the exception to the right of access applies to their entire content, the General Secretariat is unable to give partial access.

Finally, no records have been identified for the Euro Summit meetings of 12 October 2008 and 29 June 2012.

You can ask the Council to review this decision within 15 working days of receiving this reply.⁴

Yours sincerely,

Jakob THOMSEN

Enclosures

³ Article 4(6) of Regulation (EC) No 1049/2001.

⁴ Article 7(2) of Regulation (EC) No 1049/2001.

Council documents on confirmatory applications are made available to the public. According 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 16 May 2015 - 10:23 AM and registered on 18 May 2015]

DELETED, 16 May 2015

CONFIRMATORY APPLICATION

RE: your reply of 5 May 2015 partially rejecting my request of 3 January 2015 for access to the documents referred to therein.

The specific reasons for which the internal information contained in the requested documents would undermine the financial, monetary or economic policy of the Union and its Member States and for which access to them should therefore be denied are not named, nor is any justification for them given.

The complete denial of access to all the requested Eurogroup documents leads to a total lack of transparency regarding its consultations, which is currently not provided for in legislation or case-law.

For the rest, reference should be made to my request of 3 January 2015, in particular:

If an institution decides to refuse access to a document it must explain how disclosure of that document could specifically and actually undermine the interest protected by the exceptions under Article 4 of Regulation (EU) No 1049/2001 and, in any event, that risk of the interest being undermined must be reasonably foreseeable and not purely hypothetical (*Council v Access Info Europe*, EU:C:2013:671, paragraph 31 and the case-law cited there).

It is not sufficient for a document to relate to an interest protected by an exception to the right of access (Article 4 of Regulation (EU) No 1049/2001) in order to justify refusal of access to it (*Commission v Editions Odile Jacob*, C-404/10P, EU:C:2012:393, paragraph 116).

Since, even though a Member State has the discretion to request an institution not to disclose a document originating from it without its prior agreement, ultimately it is the relevant institution that is responsible for deciding whether or not to grant access to the document, weighing the interest protected under Article 4 of the abovementioned Regulation against the fact that access to documents of the institutions and, consequently, transparency, enables citizens to participate more closely in the decision-making process and guarantees that the administration enjoys greater legitimacy and is more effective and accountable to the citizens in a democratic system (*Council v Access Info Europe*, EU:C:2013:671, paragraph 32, and the case-law cited there).

If only parts of the requested document are covered by any exceptions to the right of access, the remaining parts of the document shall be released.

In any event, the right to good administration is enshrined in Article 41 of the Charter of Fundamental Rights of the EU.

The right to good administration results, in particular, in the obligation of the administration to give reasons for its decisions.

FOR THE ABOVE REASONS

I request, by means of this confirmatory application, that you revise your position and grant me access to the remaining meeting documents referred to in my request of 3 January 2015.

Yours sincerely,

DELETED
