



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 9 January 2014

5046/14

**INF 4
API 3**

NOTE

Subject: Public access to documents
- Confirmatory application No 01/c/01/14

Delegations will find attached:

- request for access to documents sent to the General Secretariat of the Council on 28 November 2013, registered the same day ([Annex 1](#)).
- reply from the General Secretariat of the Council dated 13 December 2013 ([Annex 2](#))
- confirmatory application dated 27 December 2013, registered on 3 January 2014 ([Annex 3](#)).

[E-mail message sent on 28 November 2013 - 01:56]

From: **DELETED**

Sent: Thursday, November 28, 2013 1:56 AM

To: SECRETARIAT DGF Access

Subject: Request for documents - 28 November 2013

Dear Sir/Madam,

I would be grateful if you could send me a LIST of all "Restricted" documents produced or received by JHA concerning the work of all Justice and Home Affairs Committees and Working Groups from 1 January 2013 - 30 June 2013

Yours faithfully,

DELETED



ANNEX 2

**COUNCIL OF
THE EUROPEAN UNION**

GENERAL SECRETARIAT

*Directorate-General F
Communication
Transparency*

*- Access to Documents/
Legislative Transparency*

rue de la Loi, 175
B - 1048 BRUSSELS
Tel: (32 2) 281 67 10
Fax: (32 2) 281 63 61
E-mail:
access@consilium.europa.eu

Brussels, 13 December 2013

DELETED

Ref. 13/2052-nh/jj

Dear **DELETED**,

We have registered your request of 28 November 2013 for access to "LIST on all 'Restricted' documents produced or received by JHA concerning the work of all Justice and Hoe Affairs Committees and Working Groups from 1 January 2013 - 30 June 2013". 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 (hereafter the "Regulation") and specific provisions of the Council's Rules of Procedure² and has come to the following conclusion:

The relevant services have been contacted and as the result of these consultations the General Secretariat of the Council confirms that the list as requested does not exist.

Yours sincerely,

For the General Secretariat

Jakob Thomsen

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.

[Confirmatory application - sent by e-mail on 27 December 2013 - 15:22]

From: **DELETED**

Sent: Friday, December 27, 2013 3:22 PM

To: SECRETARIAT DGF Access

Subject: **DELETED**: Confirmatory application: Request for documents - 28 November 2013

Dear Jacob Thomsen,

Please find attached a confirmatory application concerning your reference: 13/2052-nh/jj

Best wishes,

DELETED

DELETED

24 December 2013

Your ref: 13/2052-nh/jj

Dear Jacob Thomsen,

Thank you for your letter of 13 December 2013.

The Council claims that the requested list of documents "does not exist".

I wish to lodge a confirmatory application (under Article 7).

I would remind the Council of the European Ombudsman's Decision in complaint 917/2000/GG, that while there was no general right of access to the content of documents there was a right for the provision of a list of documents.

The Decision included the findings that:

"On the basis of these considerations, the Ombudsman concluded that the Council's failure to maintain a list or register of all the documents put before the Council also constituted maladministration..." (para 2.7)

"The Ombudsman acknowledges that including all the documents that are put before the Council in a list or register that is accessible to citizens will entail additional administrative work. He continues to believe, however, that this ought to be accepted in view of the fundamental importance which the right of citizens to have access to documents held by the Council has in order to guarantee openness and transparency in the latter's decision-making." (Recommendations)

After this finding the Council has, on a number of occasions, provided us with lists of documents.

I would further observe that last year the Council supplied us with a "list" of "EU classified information handled by the Council between 2001-2011" (dated 20 August 2012). This document gave precise figures for the number of "Restricted" documents handled by the Council for each year (eg: 7,051 in 2011). If the Council knows exactly how many "Restricted" documents it handles each year it is hard to believe it cannot produce a list of them as requested in the application.

Yours sincerely,

DELETED
