



Council of the  
European Union

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Eingelangt am 29/03/16

Brussels, 29 March 2016  
(OR. en)

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#### NOTE

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From:	General Secretariat of the Council
To:	Working Party on Information
Subject:	Public access to documents - Confirmatory application No 07/c/01/16

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Delegations will find attached:

- request for access to documents sent to the General Secretariat of the Council on 22 February 2016 and registered on the same day ([Annex 1](#));
- reply from the General Secretariat of the Council dated 16 March 2016 ([Annex 2](#));
- confirmatory application dated 16 March 2016 and registered on the same day ([Annex 3](#))

[E-mail message sent to [access@consilium.europa.eu](mailto:access@consilium.europa.eu) on 22 February 2016 - 13:57 using the electronic form available in the Register application]

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Occupation: Member of the European Parliament

On behalf of:

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Requested document(s):

ST 15196 2015 INIT

ST 15517 2015 INIT

1st preferred linguistic version: DE - Deutsch

2nd preferred linguistic version: EN - English

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**Council of the European Union**

General Secretariat

Directorate-General Communication and Document Management

Directorate Document Management

Transparency and Access to Documents Unit

Brussels, 16 March 2016

Mr Werner Langen

E-Mail: [werner.langen@europarl.europa.eu](mailto:werner.langen@europarl.europa.eu)

Ref.: 16/0428-jb/mf

Registered on: 22.02.2016

Deadline extension: 14.03.2016

Thank you for your request for access to documents of the Council of the European Union.<sup>1</sup>

I regret to inform you that access to documents 15196/15 and 15517/15 cannot be given, for the reasons set out below.

Document 15196/15 is a note from the delegation of the Czech Republic to the Permanent Representatives Committee/Council on: Combatting VAT fraud in the EU: use of the reverse charge mechanism - Exchange of views. Document 15517/15 is a note from the (then) incoming Netherlands Presidency to the Permanent Representatives Committee/Council on the same subject.

These documents relate to difficult ongoing discussions on taxation. The issues under discussion are of great economic importance for all governments in the EU. Disclosure of the documents would undermine the economic and financial policy of the European Union and the Member States. It would therefore undermine the protection of the public interest as regards the financial, monetary or economic policy of the EU and the Member States.

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<sup>1</sup> The General Secretariat of the Council has examined your request on the basis of the Access to Documents Regulation (ATD Regulation – 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 of 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).

Disclosure would also interfere with the decision-making process and diminish the chances of the Council reaching an agreement. It would therefore seriously undermine the Council's decision-making process. Having examined the context in which the documents were drafted and the current state of play on this matter, on balance the General Secretariat could not identify any evidence suggesting an overriding public interest in disclosure of the documents in question.

As a consequence, the General Secretariat has to refuse access to these documents.<sup>2</sup>

We have also looked into the possibility of releasing parts of the documents.<sup>3</sup> However, as the information contained in the documents forms an inseparable whole in each case, the General Secretariat is also unable to give partial access.

You may ask the Council to review this decision within 15 working days of receiving this reply (confirmatory application).<sup>4</sup>

Yours sincerely,

Jakob Thomsen

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<sup>2</sup> Art. 4(1)(a), fourth indent, and Art. 4(3), first subparagraph, ATD Regulation.

<sup>3</sup> Art. 4(6) ATD Regulation.

<sup>4</sup> Art. 7(2) ATD Regulation.

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](mailto:access@consilium.europa.eu) on 16 March 2016 - 16:41]**

From: LANGEN Werner <[werner.langen@europarl.europa.eu](mailto:werner.langen@europarl.europa.eu)>

Sent: Wednesday, March 16, 2016 16:41

To: SECRETARIAT DGF Access [Access@consilium.europa.eu](mailto:Access@consilium.europa.eu)

Subject: RE: Ref. 16/0428-jb/mf

Dear Mr Thomsen,

Thank you for your letter of 16 March. In accordance with Article 7(2) ATD Regulation, I hereby submit a confirmatory application for access to documents 15196/15 and 15517/15. As rapporteur for the parliamentary report 'Towards a definitive VAT system and fighting VAT fraud', it is very important for my work that, in addition to the current position of the European Commission, I am also familiar with the current discussions on VAT within the Council of the European Union, in particular on the use of the reverse charge mechanism. Only then will the European Parliament be able to give a balanced opinion.

Should disclosure of the documents undermine the economic and financial policy of the European Union and the Member States, as you write in your letter refusing my initial application, please would you specify other ways in which I can access the documents as a Member of the European Parliament and rapporteur.

I expressly consent to the mention of my name in accordance with Regulation (EC) No 45/2001.

Dr. Werner Langen, MEP

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