



Council of the
European Union

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Eingelangt am 12/06/18

Brussels, 12 June 2018
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API 61

NOTE

From:	General Secretariat of the Council
To:	Delegations
Subject:	Public access to documents - Confirmatory application No 13/c/01/18

Delegations will find attached the:

- request for access to documents sent to the General Secretariat of the Council on 17 April 2018 and registered the same day ([Annex 1](#));
- second reply from the General Secretariat of the Council dated 5 June 2018 ([Annex 2](#))
- confirmatory application dated 6 June 2018 and registered the same day ([Annex 3](#))

[E-mail message sent to access@consilium.europa.eu on 17 April 2018 - 15:19 using the electronic form available in the Register application]

Title/Gender: Mr

Family Name: **DELETED**

First Name: **DELETED**

E-Mail: **DELETED**

Occupation: Academia

On behalf of: **DELETED**

Address: **DELETED**

I would like access to all documents discussed by the Working Party on General Affairs, Working Party on Civil Law Matters and Working Party on Public Procurement since 1 April. If any of the working parties has not met since 1 April, I would like access to all documents relating to the working party's most recent meeting.



Council of the European Union

General Secretariat

Directorate-General Communication and Information

Knowledge Management

Transparency

Head of Unit

Brussels, 5 June 2018

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

Ref. 18/0778-ADD-ws/dm

Request made on: 17.04.2018

Deadline extension: 14.05.2018

Dear Mr **DELETED**,

Further to our letter of 14 May 2018, we hereby inform you that we have completed our examination of your request for access to documents of the Council of the European Union.¹

You have already received the following documents:

CM 2244 2018 INIT
CM 22442018 REV1
ST 12307 2017 INIT
ST 12307 2017 ADD1

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 12307 2017 ADD2
ST 12307 2017 COR1
ST 10767 2016 ADD1
ST 10767 2016 ADD2
ST 10767 2016 INIT
ST 13927 2017 ADD1
ST 10767 2017 INIT
CM 5444 2017 INIT
ST 128792017 COR1

Please find attached the following additional documents:²

ST 7180 2018 INIT
ST 7180 2018 AMD1
ST 7271 2018 INIT
ST 7271 2018 AMD1
WK 4213 2018 INIT
WK 3708 2018 INIT
WK 4306 2018 INT

I regret to inform you that access to documents ST 7762/18 INIT and ST 6625/18 INIT cannot be given at present for the reasons set out below.

Document ST 7762/18 INIT is a working document from the Presidency to delegations concerning the *proposal for a Regulation of the European Parliament and of the Council on the European citizens' initiative – Presidency compromise proposal*.

Document ST 6625/18 INIT is a note from the Presidency to the Working Party on Civil Law Matters (Brussels IIa) concerning the *proposal for a Council Regulation on jurisdiction, the recognition and enforcement of decisions in matrimonial matters and the matters of parental responsibility, and on international child abduction (recast) – Revised text of provisions on authentic instruments and agreements*.

Both documents are related to complex and sensitive legislative procedures that are ongoing and in a difficult phase.

² Please note that documents ST 10767/16 REV1 and ST 10767/16 REV2, as referred to in our previous letter, are linguistic revisions that exist only in Finnish and Slovak, respectively. We have therefore not included them.

They give details of progress made and identify the difficulties that still need to be addressed before the Council can reach a political agreement. Release to the public of the information contained in those documents would affect the negotiating process and diminish the chances of the Council reaching an agreement.

Disclosure of the documents at this stage would therefore seriously undermine the decision-making process of the Council.

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 their disclosure.

As a consequence, the General Secretariat has to refuse access to the documents at this stage.³

We have also looked into the possibility of releasing parts of the documents.⁴ However, as the information contained in each of the documents forms an inseparable whole, the General Secretariat is unable to give partial access at this stage.

You can ask the Council to review this decision within 15 working days of receiving this reply (confirmatory application).⁵

Yours sincerely,

Sally BLISS

Encl.

³ Article 4(3), first subparagraph, of Regulation (EC) No 1049/2001.

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

⁵ 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 6 June 2018 - 11:50]

From: **DELETED**

Sent: Wednesday 6 June 2018 11:50 AM

To: SECRETARIAT DGF Access Access@consilium.europa.eu

Subject: Ref. 18/0778-ADD-ws/dm

Hi Sally,

Thanks for your email!

I would ask you to review your decision regarding documents ST 7762/18 INIT and ST 6625/18 INIT.

I do not consider the mere possibility that the negotiating process could be affected by disclosure to constitute sufficiently tangible grounds for a reasonable expectation of harm, especially where the rules concerning exceptions are strictly applied, and in particular where the negotiations concern legislation.

Furthermore, in accordance with Article 4 of Regulation (EC) No 1049/2001, the parts of documents which do not concern specifically protected information must, as a rule, be released. I cannot accept your sweeping assertion that the documents form an inseparable whole.

Finally, there is also an overriding public interest in these matters as they form the basis for legislative negotiations which potentially affect large numbers of EU citizens. There is therefore an overriding public interest in having access to the discussions and to the options being considered in connection with these important legislative acts.

Many thanks!

DELETED