



Brussels, 8 January 2018
(OR. en)

5087/18

INF 1
API 1

NOTE

From: General Secretariat of the Council
To: Working Party on Information
Subject: Public access to documents
- Confirmatory application No 01/c/01/18

Delegations will find attached the:

- request for access to documents sent to the General Secretariat of the Council on 7 December 2017 and registered on 8 December 2017 ([Annex 1](#));
- reply from the General Secretariat of the Council dated 4 January 2018 ([Annex 2](#));
- confirmatory application dated 4 January 2018 and registered the same day ([Annex 3](#))

[E-mail message sent to access@consilium.europa.eu on 7 December 2017 - 19:16 using the electronic form available in the Register application]

Title/Gender: **DELETED**

Family Name: **DELETED**

First Name: **DELETED**

E-Mail: **DELETED**

Occupation: **DELETED**

On behalf of:

Address:

Telephone:

Mobile: **DELETED**

Fax:

Requested document(s):

ST 14409 2017 ADD1

ST 14409 2017 INIT



Council of the European Union

General Secretariat

Directorate-General Communication and Information

Knowledge Management

Transparency

Head of Unit

Brussels, 4 January 2018

DELETED

Email: **DELETED**

Ref. 17/2586-mj/jg

Request made on: 07.12.2017

Registered on: 08.12.2017

Dear **DELETED**,

Thank you for your request for access to documents of the Council of the European Union.¹

Please find attached a partially accessible version of document **14409/17 ADD 1**.

I regret to inform you that access to document **14409/17** cannot be given for the reasons set out below.

Documents **14409/17** and **14409/17 ADD 1** are Presidency Notes of 17 November 2017 to the Permanent Representatives Committee on a *Proposal for a Directive of the European Parliament and of the Council amending Directive 2010/13/EU on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services in view of changing market realities*. They concern the mandate for negotiations with the European Parliament.

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).

This proposal was submitted by the Commission to the European Parliament and to the Council on 26 May 2016. Since then, it was examined by the Cultural Affairs Committee and by the Audiovisual Working Party several times.

The notes were drafted to prepare for informal trilogues between the Council and the European Parliament. The documents contain compromise proposals from the Presidency with a view to reaching a first reading agreement between the two institutions.

Negotiations are still ongoing and no formal agreement has yet been reached between the Council and the European Parliament. Disclosure to the public of the Council's compromise proposals at this stage would affect the negotiating process and diminish the chances of reaching an agreement with the European Parliament.

Disclosure of document 14409/17 and full disclosure of document 14409/17 ADD 1 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 full disclosure of the documents in question.

As a consequence, the General Secretariat is not able to grant full access to the documents at this stage.²

However, as abovementioned, pursuant to Article 4(6) of the Regulation, you may have access to those parts of document 14409/17 ADD 1 which are not covered by this exception.

We have also looked into the possibility of releasing parts of document 14409/17.³ However, as the exception to the right of access applies to its entire content, the General Secretariat is unable to give partial access at this stage.

I would also like to inform you that once the legislative act in question is adopted, these documents and any other legislative documents relating to this act will be made fully available to the public.⁴

² Article 4(3), first subparagraph, of Regulation (EC) No 1049/2001.

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

⁴ Pursuant to Article 11(6) of Annex II to the Council Rules of Procedure (Council Decision No 2009/937/EU, OJ L 325, 11.12.2009, p. 35) and unless their content is covered by Article 4(1), (2) or (3), second subparagraph, of Regulation (EC) No 1049/2001.

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

Yours sincerely,

Ramón CHISMOL IBÁÑEZ

Enclosure

⁵ Article 7(2) of Regulation (EC) No 1049/2001.
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 on 4 January 2018 - 13:36]

From: **DELETED**

Sent: Thursday, January 04, 2018 1:36 PM

To: SECRETARIAT DGF Access

Subject: Re: Ref. 17/2586-mj/jg

Dear Sir or Madam,

thank you very much for the swift response and your consideration. However, in the light that I request this document as a student for research purposes only and that

its release would allow for a more transparent understanding of EU procedures, I kindly ask for your reconsideration.

Best regards,

DELETED
