



Council of the  
European Union

073191/EU XXVI. GP  
Eingelangt am 09/08/19

**Brussels, 9 August 2019**  
**(OR. en)**

**11113/19**

**INF 217**  
**API 88**

**NOTE**

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From: General Secretariat of the Council  
To: Working Party on Information  
Subject: Public access to documents  
- Confirmatory application No 20c/01/19

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Delegations will find attached the:

- request for access to documents sent to the General Secretariat of the Council on 13 June 2019 and registered the same day (Annex 1);
- reply from the General Secretariat of the Council dated 28 June 2019 (Annex 2);
- confirmatory application dated 9 July 2019 and registered the same day (Annex 3).

[E-mail message sent to [access@consilium.europa.eu](mailto:access@consilium.europa.eu) on 13 June 2019 - 13:40 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: **DELETED**

Telephone: **DELETED**

Mobile:

Fax:

Requested document(s): ST 9894 2019 REV 1



**Council of the European Union**  
General Secretariat  
Directorate-General Communication and Information - COMM  
Directorate Information and Outreach  
Information Services Unit / Transparency  
*Head of Unit*

Brussels, 28 June 2019

**DELETED**

Email: **DELETED**

Ref. 19/1437-rh/nb

Request made on: 13.06.2019

Dear **DELETED**,

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

Document **ST 9894/1/19 REV1** of 11 June 2019 is a note from the Spanish Delegation to the Working Party for Schengen Matters (Evaluations) / Mixed Committee (EU- Iceland/Norway/ Switzerland/Liechtenstein) - Schengen evaluation of Spain - Updated Action Plan to remedy any deficiencies identified in the 2017 evaluation of Spain on the application of the Schengen Acquis in the field of data protection. Release to the public of the information contained in the note would affect the evaluation process and diminish the chances of the Council reaching an agreement since the document refers to an ongoing evaluation.

Disclosure of the document at this stage would therefore seriously undermine the decision making-process of the Council. As a consequence, the General secretariat has to refuse access to the document at this stage.<sup>2</sup>

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<sup>1</sup> 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).

<sup>2</sup> Article 4(3), first subparagraph, of regulation (EC) No 1049/2001.

Having examined the context in which the document was drafted and the current state of play on this matter, on balance the General Secretariat of the Council could not identify any evidence suggesting an overriding public interest in its disclosure.

Moreover, the Action plan contains concrete recommendations, descriptions of planned actions, responsible police and other authorities as well as foreseen timeframe. Release of the report would jeopardize the public security by revealing sensitive elements of the recommendations formulated with a view to including them in the ongoing work and implementation of actions in the field of Schengen matters.

Disclosure of document **ST 9894/1/19 REV1** would therefore undermine the protection of the public interest as regards public security. As a consequence, the General Secretariat has to refuse access to the document.<sup>3</sup>

We have also looked into the possibility of releasing parts of the document.<sup>4</sup> However, as the information contained in the document forms an inseparable whole, the General Secretariat is also unable to give partial access to it.

Please note that Spain as the originator of the Action plan requested for the document not to be disclosed without its prior agreement.<sup>5</sup>

You can ask the Council to review this decision within 15 working days of receiving this reply (confirmatory application).<sup>6</sup>

Yours sincerely,

Paulo VIDAL

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<sup>3</sup> Article 4(1)(a), first indent, of Regulation (EC) No 1049/2001

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

<sup>5</sup> Article 4(5) of Regulation (EC) No 1049/2001.

<sup>6</sup> 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 (EU) No 2018/1725, 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 9 July 2019 - 12:31 using the electronic form available in the Register application]

**From:** DELETED

**Sent:** Tuesday, July 9, 2019 12:31 PM

**To:** TRANSPARENCY Access to documents (COMM) <Access@consilium.europa.eu>

**Subject:** FW: Electronic Request for Access

Title/Gender: DELETED

Family Name: DELETED

First Name: DELETED

E-Mail: DELETED

Occupation: DELETED

On behalf of:

Address: DELETED

Telephone: DELETED

Mobile:

Fax:

Requested document(s): ST 9894/1/19 REV1 (confirmatory application)

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