



**Council of the European Union**  
General Secretariat

**Brussels, 1 August 2022**

**CM 4065/22**

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### **COMMUNICATION**

#### **WRITTEN PROCEDURE**

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Contact:	Mr Fernando Florindo council.transparency@consilium.europa.eu
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Subject:	PUBLIC ACCESS TO DOCUMENTS – Confirmatory application No 10/c/01/22 – Outcome of the written procedure initiated by CM 4064/22

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Delegations are hereby informed that the written procedure for the adoption of the reply to the above-mentioned confirmatory application (see CM 4064/22) was completed on 29 July 2022 and that:

1. all delegations agreed to the use of the written procedure to adopt the reply referred to below;
2. the majority of the delegations agreed to the adoption of the reply to the confirmatory application No 10/c/01/22 (reply annexed to document ST 11026/22) with Finland voting against and Latvia and Austria abstaining;
3. the majority of the delegations agreed to publish the result of the vote.

**STATEMENT BY FINLAND**

Finland cannot concur with the reasoning in the draft reply to confirmatory application No 10/c/01/22 that disclosure of the requested document would seriously undermine the ongoing decision-making process, especially considering the restrictive interpretation of this exception by the Court regarding documents that relate to legislative procedures (T-540/15 De Capitani).

**STATEMENT BY AUSTRIA**

Austria is aware of the sensitivity regarding the release of pending dossiers and generally supports a restrictive release policy of pending documents.

In the case of the dossier in question Austria and now most of the other Member States have recognized, that the inadequacy of the text of the dossier was –among other reasons – also a consequence of the fact, that there was insufficient time for Member States to hold in-depth consultations with the affected stakeholders on many details.

From Austria's point of view, there are good reasons at the present stage, when attempts are being made to work on an much more improved text not to withhold the current intermediate result from the public. A dossier mainly dealing with transparency should also show transparency to some extent. This might be an argument not to deny the access to the text which is probably outdated in several details.

However, this should not be a precedent that Austria generally demands open access for dossiers that are still under negotiation. It must be a careful case-by-case assessment.

Austria accepts of course any decision taken by the majority of delegations in the council.

In this specific case Austria wants to abstain from the decision.

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