



Council of the
European Union

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Eingelangt am 03/11/22

Brussels, 3 November 2022
(OR. en)

14310/22

INF 181
API 101

NOTE

From:	General Secretariat of the Council
To:	Delegations
Subject:	Public access to documents - Confirmatory application No 19/c/01/22

Delegations will find attached:

- the request for access to documents sent to the General Secretariat of the Council on 6 September 2022 and registered on the same day (Annex 1);
- the reply from the General Secretariat of the Council dated 18 October 2022 (Annex 2);
- the confirmatory application dated 28 October 2022 and registered on the next day (Annex 3).

[E-mail message sent to access@consilium.europa.eu on Tuesday 6 September, 2022 15:14]

From: **DELETED**

Sent: mardi 6 septembre 2022 15:14

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

Subject: RE: Ref. 22/1594-mj/ns

Dear **DELETED**,

Thank you for the reply provided below.

Pursuant to Article 4(6) of the Regulation, I would like to ask for partial access to the document containing the relevant data of the officials who were eligible for promotion by providing that information which is not directly linked to personal data such as the grades of all the candidates. The grades awarded to all candidates have to be placed in comparison with the other grades in order to understand the process of promotion.

The names and the other data linked to experience in service can be excluded from the disclosure as the grades alone will not lead to the identification of the colleagues and the revealing of all the grades awarded cannot be classified as personal data. Granting access partially to the document will enhance transparency which is the purpose of the Transparency Regulation and also respecting the GDPR conditions to protect personal data based on the principles of necessity and proportionality.

The disclosure of only the grades of all the candidates appears to me necessary to comprehend the decision which was taken in my case and proportional with the purpose to ensure transparency as it does not contain personal data or identifiable but only the calculation of the different grades awarded to the AD8 category of candidates considered able to be promoted.

Best regards,

DELETED



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, 18 October 2022

DELETED

Email: **DELETED**

Ref. 22/1833-mj/el

Request made on: 06.09.2022

Deadline extension: 27.09.2022

Dear **DELETED**,

Thank you for your request for *“partial access to the document containing the relevant data of the officials who were eligible for promotion by providing that information which is not directly linked to personal data such as the grades of all the candidates.”*¹

I regret to inform you that access to this document cannot be given for the reasons set out below.

Even if the personal data of the officials who were eligible for promotion were redacted from the requested document, it would still be possible to establish a link between the name of the candidates and the marks awarded to them.

The list of people eligible for promotion is published in a CP in alphabetical order. The internal document used by the Advisory Promotion Boards is drawn, first, by seniority in the same grade and then, by alphabetical order. Seniority in the same grade can be retrieved by looking at past CP's. There is therefore a risk that disclosure of the requested document would undermine the privacy of the other officials mentioned in the list.

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).

Consequently, disclosure of the requested document would undermine the protection of privacy and the integrity of the individuals in question, in particular in accordance with European legislation regarding the protection of personal data². Accordingly, pursuant to Article 4(1)(b) of Regulation (EC) No 1049/2001 (protection of privacy and the integrity of the individual), the General Secretariat is unable to grant you access this document.

Pursuant to Article 7(2) of Regulation (EC) No 1049/2001, you may ask the Council to review this decision within 15 working days of receiving this reply. Should you see the need for such a review, you are invited to indicate the reasons thereof.

Yours sincerely,

Fernando FLORINDO

² Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data (OJ L 295, 21.11.2018, p. 39).

[E-mail message sent to access@consilium.europa.eu on Friday, 28 October, 2022 09:34]

From: **DELETED**

Sent: vendredi 28 octobre 2022 09:34

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

Subject: RE: Ref. 22/1833-mj/el

Dear **DELETED**,

Thank you for your letter.

I would like to ask for the reviewing of the GSC decision on the following grounds:

- The nature of the document it is not private and the document serves for professional purposes;
- There is a legitimate interest to be able to assess if the process of evaluation was conducted in full transparency and based on the Staff Regulations and having in mind the Court jurisprudence on both principles, transparency&access to documents and data protection;
- The personal data contained there should be anonymised, as under Art. 32 (1) GDPR; there various techniques which are legitimate and already in use such as indicated by the European Data Protection Board here: https://ec.europa.eu/justice/article-29/documentation/opinion-recommendation/files/2014/wp216_en.pdf
- For example, after removing or making anonymous the names of the colleagues and any direct personal data such as number of personnel etc., the data related to their marks and remarks can be moved by permutation; this technique, consists of shuffling the values of attributes in a table so that some of them are artificially linked to different data subjects, is useful when it is important to retain the exact distribution of each attribute within the dataset;
- This way, the objective of both regulations will be respected as no personal data will be available and a document used by a public institution can serve for transparency in the public interest when evaluating an EU procedure to promote staff.

Sincerely,

DELETED
