



Council of the  
European Union

123433/EU XXVII. GP  
Eingelangt am 06/12/22

Brussels, 6 December 2022  
(OR. en)

15696/22

INF 204  
API 114

#### NOTE

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From:	General Secretariat of the Council
To:	Delegations
Subject:	Public access to documents - Confirmatory application No 21/c/01/22

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Delegations will find attached:

- the request for access to documents sent to the General Secretariat of the Council on 19 October 2022 and registered on the same day (Annex 1);
- the reply from the General Secretariat of the Council dated 1 December (Annex 2);
- the confirmatory application dated 1 December 2022 and registered on the same day (Annex 3).

**[E-mail message sent to [access@consilium.europa.eu](mailto:access@consilium.europa.eu) on Wednesday 19 October, 2022 16:56 using the electronic form available in the Register application]**

**From:** document-request@consilium.europa.eu <document-request@consilium.europa.eu>

**Sent:** mercredi 19 octobre 2022 16:56

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

**Subject:** Consilium - Electronic Request for Access to documents [ENGLISH]

**DELETED**

**Family name** **DELETED**

**First name** **DELETED**

**E-mail** **DELETED**

**Occupation**

**On behalf of**

**Full postal address**

**Telephone**

**Mobile telephone**

**Fax**

**Requested document(s)** ST 11768 2022 REV 1

**1st option:** EN

**2nd option:** X



**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, 1 December 2022

**DELETED**

E-mail: **DELETED**

Ref. 22/2191-lk/vk

Request made on: 19.10.2022

Deadline extension: 11.11.2022

Dear Mr **DELETED**,

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

I regret to inform you that access to document **ST 11768/1/22 REV 1** cannot be given for the reasons set out below.

Document **ST 11768/1/22 REV 1** is a note from the General Secretariat of the Council to delegations on the proposed *Council Regulation on the election of the members of the EP by direct universal suffrage, repealing Council Decision (76/787/ECSC, EEC, Euratom) and the Act concerning the election of the members of the EP by direct universal suffrage annexed to that decision*.

This document contains written contributions by a number of Member States on the proposed Council Regulation. Discussions on this file are still ongoing within the preparatory bodies of the Council.

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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).

For the Council to reach a common position on a given file, Member States hold consultations and exchange views. Disclosure of these exchanges at a moment when the appropriate balance of the various interests involved has not yet been achieved within the Council's preparatory bodies would reduce the flexibility for delegations to formulate and reconsider their positions in the light of the arguments exchanged. This would seriously affect the chances of delegations' positions converging. To reveal the contents of such exchanges before a common position has been reached within the Council would interfere with the Council's decision making-process negotiations and would jeopardise the chances of an agreement within the Council.

In addition, were the document to be disclosed, third parties may attempt to influence or exert pressure on the policy choices to be made in the ongoing decision-making process. Disclosure of the requested document at this stage would thus seriously undermine the decision-making process of the Council.<sup>2</sup>

Having examined the context in which document ST 11768/1/22 REV 1 was drafted and the current state of play on this file, on balance the General Secretariat could not identify any evidence suggesting an overriding public interest in its disclosure.

We have also looked into the possibility of releasing parts of this document.<sup>3</sup> However, as the exception to the right of access applies to its entire content, the General Secretariat is unable to give partial access.

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

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<sup>2</sup> Article 4(3) first indent of Regulation (EC) No 1049/2001.

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

[E-mail message sent to [access@consilium.europa.eu](mailto:access@consilium.europa.eu) on Thursday, 1 December, 2022 11:21]

**From:** **DELETED**

**Sent:** jeudi 1 décembre 2022 11:21

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

**Subject:** Re: Ref. 22/2191-lk/vk

I would like to request a review of your decision.

Considering 15(2) TFEU says the Council shall meet in public when discussing legislative acts, and the proposed Regulation is a legislative act, it is clearly spirit of the Treaties and in the public interested that the positions and deliberations regarding legislative acts be publicly available.

Thank you in advance

**DELETED**

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