



Brussels, 16 January 2023

CM 1092/23

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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 20/c/01/22 – Outcome of the written procedure initiated by CM 5898/22

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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 5898/3/22 REV 3) was completed on 16 January 2023 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 confirmatory application No 20/c/01/22 (reply annexed to document ST 15242/2/22 REV 2), with the Netherlands voting against and making the statement below;
3. all delegations agreed to publish the result of the vote.

## **STATEMENT BY THE NETHERLANDS**

The Netherlands cannot concur with the reasoning in the draft reply to confirmatory application No 20/c/01/22 that disclosure of the requested document would (seriously) undermine the protection of the public interests as regards the financial, monetary or economic policy of the Community or a Member State and the Council's decision-making process as well as the protection of legal advice and court proceedings. Considering the restrictive interpretation of these exceptions by the Court, the Netherlands believes that it is not sufficiently motivated that there is a reasonably foreseeable and not purely hypothetical risk that disclosure of the requested document would specifically and actually undermine the relevant interests (in light of the case law of the Court of Justice and in particular case C-350/12 P, Council/in 't Veld and joined cases C-39/05 P and C-52/05, Kingdom of Sweden and Turco/Council).

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