



Council of the  
European Union

013352/EU XXVII. GP  
Eingelangt am 22/02/20

Brussels, 17 February 2020  
(OR. en)

6041/20

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API 23

#### NOTE

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From: General Secretariat of the Council  
To: Working Party on Information  
Subject: Public access to documents  
- Confirmatory application No 05/c/01/20

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Delegations will find attached the:

- two requests for access to documents sent to the General Secretariat of the Council on 17 December 2020 and registered on the same day (Annex 1);
- two replies from the General Secretariat of the Council dated 23 January 2020 (Annex 2);
- confirmatory application dated 12 February 2020 and registered on the same day (Annex 3).

[E-mail message sent to [access@consilium.europa.eu](mailto:access@consilium.europa.eu) on 17 December 2019 - 11:20 using the electronic form available in the Register application]

From: **DELETED**

Sent: Tuesday, December 17, 2019 11:20 AM

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

Subject: access to documents request - Detailed report Eurogroup

Dear Council of the EU,

Under the right of access to documents in the EU treaties, as developed in Regulation 1049/2001, I am requesting documents which contain the following information:

Detailed report of Eurogroup held on December 4th, 2019 in Bruxelles, including:

- all minutes (and other notes) of discussion about European Stability Mechanism reform;
- in particular, a full disclosure of Italy's Minister for Economic Affairs and Finance, Roberto Gualtieri, declaration and hints to the discussion about European Stability Mechanism reform

Yours faithfully,

**DELETED**

[E-mail message sent to [access@consilium.europa.eu](mailto:access@consilium.europa.eu) on 17 December 2019 - 11:26 using the electronic form available in the Register application]

From: **DELETED**

Sent: Tuesday, December 17, 2019 11:26 AM

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

Subject: access to documents request - Detailed report Euro Summit

Dear Council of the EU,

Under the right of access to documents in the EU treaties, as developed in Regulation 1049/2001, I am requesting documents which contain the following information:

Detailed report of Euro Summit held on December 13th, 2019 in Bruxelles, including:

- all minutes (and other notes) of discussion about European Stability Mechanism reform;
- in particular, a full disclosure of Italy's participant(s), declaration and hints to the discussion about European Stability Mechanism reform

Yours faithfully,

**DELETED**

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**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, 23 January 2020

Mr **DELETED**  
Email: **DELETED**

Ref. 19/2668-em/ns

Request made on: 17.12.2019  
Deadline extension: 17.01.2020

Dear Mr **DELETED**,

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

We would like to inform you that all preparatory and outcome documents related to the meeting of the **Eurogroup** on December 4th, 2019, are public and available for downloading on the relevant page of the Meetings calendar section of the Council's website, under the following [link](#).

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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 of the European Council's Rules of Procedure (European Council Decision No 2009/882/EU, OJ L 315, 2.12.2009, p. 51) set out in Article 10(2) which makes Annex II to the Council's Rules of Procedure (Council Decision No 2009/937/EU, OJ L 325, 11.12.2009, p. 35) applicable *mutatis mutandis*.

For your convenience, you will find attached to the present letter the documents we identified as relevant to your request. Please note however that Regulation (EC) 1049/2001 regarding public access to European Parliament, Council and Commission documents is not directly applicable to the Eurogroup, which is an informal gathering of Finance Ministers of the Euro area Member States as provided by [Protocol 14 of the Treaty on the functioning of the European Union](#). Moreover, according to [Eurogroup's Working methods](#), the proceedings of the Eurogroup are confidential. Therefore no minutes or verbatim of discussions during the Eurogroup meetings can be provided to the public.

Yours sincerely,

Fernando FLORINDO

(6 Enclosures)

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**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, 23 January 2020

Mr **DELETED**  
Email: **DELETED**

Ref. 19/2669-em/ns

Request made on: 17.12.2019  
Deadline extension: 17.01.2020

Dear Mr **DELETED**,

Thank you for your request for access to documents of the Council of the European Union.<sup>2</sup>

We have identified the following documents as related to your request:

- a letter dated 5 December 2019 from the Eurogroup President to the President of the Euro Summit, which provides, among others, information on the discussion within Eurogroup about the European Stability Mechanism reform;
- the statement agreed at the Euro Summit meeting of 13 December 2019.

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<sup>2</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 of the European Council's Rules of Procedure (European Council Decision No 2009/882/EU, OJ L 315, 2.12.2009, p. 51) set out in Article 10(2) which makes Annex II to the Council's Rules of Procedure (Council Decision No 2009/937/EU, OJ L 325, 11.12.2009, p. 35) applicable mutatis mutandis.

Please note however that, under the under the [Rules for the organisation of the proceedings of the Euro Summits](#), the deliberations of the Euro Summit are covered by the obligation of professional secrecy. Therefore no minutes or verbatim of discussions during the Euro Summits can be provided to the public.

We would like to inform you that you can find other documents related to the Euro Summit of December 13th, 2019, on the relevant page of the Meetings calendar section of the Council's website, under the following [link](#).

Yours sincerely,

Fernando FLORINDO

(2 Enclosures)

[E-mail message sent to [publicinfo@consilium.europa.eu](mailto:publicinfo@consilium.europa.eu) on 12 February 2019 - 16:52]

First Name: **DELETED**

Postal Address:

Family Name: **DELETED**

Street: **DELETED**

Email: **DELETED**

Town: **DELETED**

Residence Country: **DELETED**

PostCode: **DELETED**

Gender: **DELETED**

Country: **DELETED**

Age: **DELETED**

Phone: **DELETED**

Economic Category:

Subject: Council of the European Union

Question(s): Dear Council of the European Union, on 17 December 2019 I sent two separate requests for access to documents (19/2668 and 19/2669) via the AskTheEU.org platform. The requests concerned those parts of the minutes of the Eurogroup meeting held on 4 December 2019 and of the Euro Summit held on 13 December 2019 which related to the reform of the European Stability Mechanism. I also requested access to the statements by Italy's Minister for Economic Affairs, Roberto Gualtieri, and his contributions to the discussions on the reform. The purpose of the request was to clarify the actual position taken by the Italian Government at the two meetings, given that the reform of the ESM has been a major topic of debate for several months now, both within and outside parliamentary circles.



At its sitting of 19 June 2019, the Italian Chamber of Deputies had approved Motion 6-00076 in which the government pledged:

‘(12) to promote at EU level a joint assessment of the three elements of the package for deepening the Economic and Monetary Union, subject to a final assessment being made only after all the various components of the package have been defined in detail, in accordance with the so-called ‘package approach’, thus making it possible to achieve political agreement on all the measures involved, in line with the principle of overall balance;’ and ‘(13) to inform the Chambers of the proposed amendments to the ESM Treaty drawn up at EU level so that Parliament can issue guidelines, and consequently to refrain from taking any final decision until Parliament has expressed its opinion.’. Although on that occasion, and repeatedly over the course of the following months, Prime Minister Giuseppe Conte reassured Parliament and the general public that Italy’s position would remain ‘tied’ to the ‘package approach’ referred to in the resolution of 19 June 2019, the summing-up letter of the Eurogroup in inclusive format, published on 30 January 2020, suggested precisely the opposite: ‘We intend to clarify the legal status of the terms of reference of the single limb Collective Action Clauses (CACs) and to reach a final political agreement on the ESM Treaty [...], to be followed by the signature of the Amending Agreement of the Treaty’. The same cannot be said for the other components of the ‘package’, namely, the budgetary instrument for the euro area (BICC), the European deposit insurance scheme (EDIS) and the common backstop for the Single Bank Resolution Fund, the definition of which is not expressed in such clear, specific terms.

On 20 January, in the margins of the Eurogroup, President Mario Centeno already said in relation to the ESM reform that ‘it is no longer a question of substance, but we need to tie up a few loose ends of legal nature before launching the process for signature’. Finally, on 7 February 2020 the Italian press gave considerable coverage to a news item citing ‘European sources involved in the preparation of meetings of the euro area Finance Ministers’, who reported that ‘the revised European Stability Mechanism Treaty [had been] finalised and [would] be signed by EU ambassadors in April’. In view of all of the above, I consider it vitally important to be made aware of the Italian government’s position and contribution at the aforementioned meetings. In the reply to my requests, however, it was noted that: – ‘Regulation (EC) No 1049/2001 regarding public access to European Parliament, Council and Commission documents is not directly applicable to the Eurogroup, which is an informal gathering of Finance Ministers of the euro area Member States’ and that ‘according to the Eurogroup’s working methods, the proceedings of the Eurogroup are confidential’, and therefore ‘no minutes or verbatim of discussions can be provided to the public’ (19/2668); – ‘Under the Rules for the organisation of the proceedings of the Euro Summits, the deliberations of the Euro Summit are covered by the obligation of professional secrecy’ and thus ‘no minutes or verbatim of discussions can be provided to the public’ (19/2669). All of these arguments were duly reiterated by the Italian Prime Minister, Giuseppe Conte, during the sitting of 6 February 2020, in response to written question S.3/01349 from Senator Alberto Bagnai. I reported on all of these events in an article in the national daily newspaper *La Verità*, to which I have the honour of contributing. I must express my disagreement with the conclusions drawn by the General Secretariat of the Council. First of all, as a matter of principle. The preamble to the Regulation in question expressly defines openness as ‘a new stage in the process of creating an ever closer union among the peoples of Europe, in which decisions are taken as openly as possible and as closely as possible to the citizen’, and then states that ‘openness enables citizens to participate more closely in the decision-making process and guarantees that the administration enjoys greater legitimacy and is more effective and more accountable to the citizen in a democratic system’. Openness contributes to strengthening the principles of democracy and respect for fundamental rights as laid down in Article 6 of the EU Treaty and in the Charter of Fundamental Rights of the European Union.

Article 42 of the EU Charter of Fundamental Rights states that: ‘[a]ny citizen of the Union, and any natural or legal person residing or having its registered office in a Member State, has a right of access’ to the documents of the European Parliament, the Council and the Commission. Lastly, I note the information on the official website of the European Commission, which states that European citizens have the right to know how decisions are taken in the EU institutions, who is involved in the decision-making process and what documents are produced in the preparation and adoption of legal acts, that they have the right to request access to such documents and express their views, and that transparency is crucial to encouraging European citizens to participate more actively in the democratic life of the EU. But of course, this is not only a question of principle. The substance of my argument is as follows: – Regulation (EC) No 1049/2001 does indeed provide for exceptions under Article 4: ‘The institutions shall refuse access to a document where disclosure would undermine the protection of: [...] the financial, monetary or economic policy of the Community or a Member State’. However, it is not clear how disclosing the minutes and transcripts of Eurogroup and Euro Summit meetings could ‘undermine’ the proper conduct of the EU’s economic and monetary policies, in particular in view of the fact that the discussions held and decisions taken in such meetings are of vital importance to the lives of all European citizens; – As pointed out by the European Ombudsman in a letter to then President of the Eurogroup Jeroen Dijsselbloem, in relation to Case SI/5/2016/EA, ‘according to a 2015 information note drafted by the Council’s Legal Service, requests for public access to documents held by the General Secretariat of the Council (GSC) in relation to the performance of tasks of support to bodies or entities other than the Council (including the Eurogroup) fall within the scope of application of Regulation 1049/2001 on public access to documents and are, therefore, to be processed by the GSC in line with the substantive and procedural legal framework set out in that’. In light of the above, under Regulation (EC) No 1049/2001, I reiterate my request to access the following documents: – the minutes and/or transcripts of the Eurogroup meeting of 4 December 2019 relating to the reform of the European Stability Mechanism; – the full minutes and/or transcripts of the Euro Summit meeting of 13 December 2019 relating to the reform of the European Stability Mechanism; – any written or oral contribution on that reform made by the Italian delegates at the aforementioned meetings relating to the reform of the European Stability Mechanism, in order to clarify the actual position of the Italian government on this issue.

Should access to the above documents be refused once again, I reserve the possibility of asserting my rights via the appropriate fora.

[complimentary close]

**DELETED**