



Council of the  
European Union

140054/EU XXVII. GP  
Eingelangt am 08/05/23

Brussels, 8 May 2023  
(OR. en)

9106/23

INF 97  
API 70

#### NOTE

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|----------|------------------------------------------------------------------------|
| From:    | General Secretariat of the Council                                     |
| To:      | Delegations                                                            |
| Subject: | Public access to documents<br>- Confirmatory application No 11/c/01/23 |

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Delegations will find attached:

- the request for access to documents sent to the General Secretariat of the Council on 12 April 2023 and registered on the same day (Annex 1);
- the reply from the General Secretariat of the Council dated 4 May 2023 (Annex 2);
- the confirmatory application dated 5 May 2023 and registered on the same day (Annex 3).

[E-mail message sent to [access@consilium.europa.eu](mailto:access@consilium.europa.eu) on Wednesday 12 April 2023, 13:58]

**From:** DELETED

**Sent:** 12 April 2023 13:58

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

**Subject:** access to documents request - WK documents on Media Freedom Act

Dear Council of the European Union,

Under the right of access to documents in the EU treaties, as developed in Regulation 1049/2001, I am requesting all working documents on the European Media Freedom Act.

Yours faithfully,

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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, 4 May 2023

**DELETED**

Email: **DELETED**

Ref. 23/1079-mj/vk

Request made on: 12.04.2023

Dear **DELETED**,

Thank you for your request for access to “*all working documents on the European Media Freedom Act*”.<sup>1</sup>

The following documents were identified as corresponding to your request:

|                     |                          |                           |
|---------------------|--------------------------|---------------------------|
| WK 14260 2022 INIT  | WK 638 2023 INIT         | WK 2185 2023 ADD 2        |
| WK 14260 2022 ADD 1 | WK 638 2023 COR 1        | WK 2185 2023 ADD 3        |
| WK 14260 2022 ADD 2 | WK 638 2023 COR 1 ADD 1  | WK 2185 2023 ADD 4        |
| WK 14260 2022 ADD 3 | WK 638 2023 COR 1 ADD 2  | WK 2273 2023 INIT         |
| WK 14551 2022 INIT  | WK 866 2023 INIT         | WK 2862 2023 INIT         |
| WK 14551 2022 ADD 1 | WK 866 2023 ADD 1        | WK 2881 2023 INIT         |
| WK 14551 2022 ADD 2 | WK 1469 2023 INIT        | <b>WK 3419 2023 INIT</b>  |
| WK 15690 2022 INIT  | WK 1469 2023 ADD 1       | <b>WK 3419 2023 ADD 1</b> |
| WK 15690 2022 ADD 1 | WK 1469 2023 ADD 2       | <b>WK 3419 2023 ADD 2</b> |
| WK 15690 2022 ADD 2 | WK 1469 2023 ADD 2 REV 1 | WK 3419 2023 ADD3         |

<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).

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|-----------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------|
| WK 15985 2022 INIT<br>WK 15985 2022 ADD 1<br>WK 17757 2022 INIT<br>WK 17757 2022 ADD 1                          | WK 1469 2023 ADD 3<br>WK 1630 2023 INIT<br>WK 2185 2023 INIT<br>WK 2185 2023 ADD 1               | WK 3432 2023 INIT<br>WK 3432 2023 ADD 1<br>WK 3432 2023 ADD 2<br>WK 3824 2023 INIT       |
| WK 3824 2023 ADD 1<br>WK 3951 2023 INIT<br>WK 3951 2023 ADD 1<br><b>WK 3951 2023 ADD 2</b><br>WK 3951 2023 ADD3 | WK 3951 2023 ADD 4<br>WK 3991 2023 INIT<br>WK 3991 2023 COR 1<br><b>WK 3991 2023 COR 1 ADD 1</b> | WK 4717 2023 INIT<br>WK 4717 2023 REV 1<br>WK 4717 2023 REV 1 ADD 1<br>WK 4721 2023 INIT |

You may have full access to the abovementioned documents except for the ones highlighted in bold.

As regards documents WK 3419 2023 INIT, WK 3419 2023 ADD 1, WK 3419 2023 ADD 2, WK 3951 2023 ADD 2 and WK 3991 2023 COR 1 ADD 1, you may also have access to them with the exception of a small part in each of these documents which contains a reference to the content of Council's legal service opinion on the draft European Media Freedom Act. Access to these parts of the documents has to be refused on the basis of Article 4(2), second indent (protection of legal advice) and Article 4(3), first paragraph (protection of the ongoing decision-making process) of Regulation (EC) No 1049/2001.

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

Enclosures: 55

Link to documents: <https://we.tl/t-VrjFwFhGo2>

**[E-mail message sent to [access@consilium.europa.eu](mailto:access@consilium.europa.eu) on Friday, 5 May 2023, 13:53]**

**From:** **DELETED**

**Sent:** 5 May 2023 13:53

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

**Subject:** Internal review of access to documents request - WK documents on Media Freedom Act

Dear Mr Florindo,

Please pass this on to the person who reviews confirmatory applications.

I am filing the following confirmatory application with regards to my access to documents request 'WK documents on Media Freedom Act'. In my request I was denied access to documents pertaining to the content of the Council's legal service opinion on the draft European Media Freedom Act.

I would like to object to that and ask for full disclosure of all documents in question. I argue that the Council has provided no concrete reasons as to why disclosure would undermine the protection of legal advice, and additionally argue that there is an overriding public interest in disclosure. The ECJ has reasoned in *Sweden and Turco v Council* that openness grants legitimacy to the institutions and increases the confidence of EU citizens towards these institutions while the lack of debate and information may produce doubts in respect of the legitimacy of the whole decision-making process. I would like to further argue that there is an overriding public interest because disclosure of documents containing the advice of an institution's legal service on legal issues increases the transparency of the legislative process and strengthens the democratic right of European citizens to scrutinize the information which has formed the basis of a legislative act.

Yours faithfully,

**DELETED**

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