



Council of the
European Union

159173/EU XXVII. GP
Eingelangt am 25/10/23

Brussels, 25 October 2023
(OR. en)

14704/23

INF 240
API 171

NOTE

From:	General Secretariat of the Council
To:	Delegations
Subject:	Public access to documents - Confirmatory application No 35/c/01/23

Delegations will find attached:

- the request for access to documents sent to the General Secretariat of the Council on 18 August 2023 and registered on 21 August 2023 (Annex 1);
- the replies from the General Secretariat of the Council dated 2 and 18 October 2023 (Annex 2);
- the confirmatory application dated 25 October 2023 and registered on the same day (Annex 3).

[E-mail message sent to access@consilium.europa.eu on Friday 18 August 2023, 17:13]

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

Sent: Friday 18 August 2023 17:13

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

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

This e-mail has been sent to access@consilium.europa.eu using the electronic form available in the Register application.

This electronic form has been submitted in ENGLISH.

Form of address

DELETED

Family name

DELETED

First name

DELETED

E-mail

DELETED

Occupation

DELETED

Name of the organisation

Full postal address

DELETED

Telephone

DELETED

Requested document(s)

Any relevant documents (agendas, minutes, conclusions, votes, outcomes) concerning the 54th meeting of the Association Council between the European Union and Turkey held on 15 March 2019.

1st option

EN

2nd option

X

This is an automatic reply from the General Secretariat of the Council of the European Union concerning your request for access to Council documents.

This notification was sent from an unattended mailbox. Please do not reply.



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, 2 October 2023

DELETED

Email: **DELETED**

Ref. 23/2353-VI/vk

Request made on: 18.08.2023

Registered on: 21.08.2023

Deadline extension: 11.09.2023

Dear **DELETED,**

Thank you for your request for access to documents of the Council of the European Union.¹

As a reminder, you requested “any relevant document concerning the 54th meeting of the Association Council between the EU and Turkey held on 15 March 2019”.

We identified the following documents corresponding to your request: **ST 4802/19, ST 4803/19, ST 4804/19, ST 4806/19, ST 6965/19, WK 2048/19 + REV 1 + REV 2 + REV 3 + REV 4, WK 2388/19 + ADD 1 and WK 2688/19 + ADD 1.**

Please find attached the following documents in their entirety: **ST 4802/19, ST 4803/19, ST 6965/19, WK 2048/19 + REV 1 + REV 2 + REV 3 + REV 4, WK 2388/19 + ADD 1 and WK 2688/19 + ADD 1.**

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).

Moreover, you may have access to the content of document **ST 4806/19**, draft minutes of the abovementioned meeting, except to the identities of some EU and Turkey officials mentioned therein (one EU official and one Turkish official in page 2, and five officials in page 6) as they constitute personal data to be protected in line with the existing EU legislation.

The abovementioned personal data contained in this document is necessary for the organisation of the work of the Council. The data protection rules at EU level² provide that when the personal data collected is to be used for a different purpose, including disclosure to the public, a balance needs to be established between the public interest in having access to such data and the legitimate right of individuals to safeguard their personal data.

After carefully considering all the principles related to this request, on balance the Council has concluded that disclosure of the abovementioned seven officials' identity in the document would cause a breach to the protection of the privacy of the identified individuals.³

Finally, as regards **ST 4804/19**, containing Turkey's position paper at that meeting, we are still running consultations with the Turkish authorities on its possible disclosure. You will receive a complementary reply as soon as those consultations are completed.

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: 13

² Regulation (EU) No 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).

³ Article 4(1)(b) of Regulation (EC) No 1049/2001.



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 2023

DELETED

Email: **DELETED**

Ref. 23/2353-ADD-vl/el

Request made on: 18.08.2023

Registered on: 21.08.2023

Deadline extension: 11.09.2023

Dear **DELETED**,

Thank you for your request for access to documents of the Council of the European Union.⁴

As a complement to our initial reply on 2 October 2023, we would like to inform you that our consultation with the Turkish authorities concerning document **ST 4804/19**, containing Turkey's position paper at the 54th meeting of the Association Council between the European Union and Turkey held on 15 March 2019, have been completed.

Regretfully, public access to the abovementioned document cannot be granted, since the Turkish authorities have expressed their opinion against disclosure. Consequently, the General Secretariat is unable to release this document, since its disclosure would cause prejudice to the EU's relations with the third country concerned.⁵

⁴ 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).

⁵ Article 4(1)(a), third indent of Regulation (EC) No 1049/2001.

We have also looked into the possibility of releasing parts of the document.⁶ However, as the information contained therein forms an inseparable whole, 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

⁶ Article 4(6) of Regulation (EC) No 1049/2001.

[E-mail message sent to access@consilium.europa.eu on Wednesday, 25 October 2023, 00:13]

From: **DELETED**

Sent: Wednesday 25 October 2023 00:13

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

Subject: Re: Ref. 23/2353-ADD-v1/el

To whom it may concern,

I have received your reply regarding your consultation with the Turkish authorities concerning document ST 4804/19, which contains Turkey's position paper at the 54th meeting of the Association Council between the EU and Turkey. You stated that public access to the document cannot be granted because the Turkish authorities have expressed their opinion against disclosure.

I would like to submit a confirmatory application under Article 7(2) of Regulation (EC) No 1049/2001 and request a review of the previous decision. The Council stated that disclosure cannot be granted as it would prejudice the EU's relations with the third country concerned, as it is one of the exceptions stipulated under Article 4(1) of Regulation (EC) No 1049/2001. I respectfully disagree with this assertion that the disclosure would prejudice the EU's relationship with Turkey for the following reasons:

- Turkish institutions and authorities are known for their lack of transparency. As a lawyer, I have made numerous freedom of information requests on various matters of public interest, and to date, I have not received any satisfactory responses or reasoning, unlike the one I received from you in this application. In fact, I still have pending cases before the Turkish Constitutional Court concerning my freedom of information request from 2020. Such a lack of transparency is also reflected in previous EU accession reports and EU parliament reports on Turkey. Moreover, you did not specify the exact reasons why the Turkish authorities were against the disclosure of document ST 4804/19. I respectfully request that you reevaluate the reasoning of the Turkish authorities. In any case, whether my confirmatory application is approved or rejected, I also respectfully request to learn the reasoning provided by the Turkish authorities concerning the disclosure.
- As I understand, the document in question contains the position during the 54th meeting of the Association Council. According to the minutes that were provided to me, I gained an understanding of the overall points Turkey put forward and drew certain conclusions on Turkey's position. I will need ST 4804/19 for a more thorough and detailed examination. Therefore, such disclosure would not prejudice the relationship between the EU and Turkey, as I have already received a document and am aware of the overall points, and no harm has been done.

In any event, I would like to thank you for your assistance and the documents that have been provided.

Sincerely,

DELETED