



Council of the
European Union

161276/EU XXVII. GP
Eingelangt am 13/11/23

Brussels, 13 November 2023
(OR. en)

15331/23

INF 245
API 175

NOTE

From:	General Secretariat of the Council
To:	Delegations
Subject:	Public access to documents - Confirmatory application No 36/c/01/23

Delegations will find attached:

- the request for access to documents sent to the General Secretariat of the Council on 24 and 28 September 2023 and registered on 28 September 2023 (Annex 1);
- the reply from the General Secretariat of the Council dated 24 October 2023 (Annex 2);
- the confirmatory application dated 24 October 2023 and registered on the same day (Annex 3).

[E-mail message sent to access@consilium.europa.eu on Thursday 28 September 2023, 16:27]

From: **DELETED**

Sent: jeudi 28 septembre 2023 16:27

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

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

Dear Sir or Madam,

Thank you for your swift reply. I have further information about the document I am looking for, which might help to identify it:

Reference number: WK 2767/2022 INT (or INIT)

Type: Working Document

From: EEAS

To: Working Party of Foreign Relations Counsellors; Working Party on Eastern Europe and Central Asia

Subject: UKRAINE: 2022227 – 3 Underlying/supporting evidence – territorial integrity regime

Does this help?

Thank you already and kind regards.

DELETED

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

Sent: Thursday, September 28, 2023 3:34 PM

To: **DELETED**

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

Dear **DELETED**,

Thank you for your request. However, the document number you have requested does not exist. Could you please check?

Kind regards,

Transparency

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

Sent: jeudi 28 septembre 2023 11:05

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

Law firm

I submit this request as a representative of an organisation.

Name of the organisation

DELETED

Full postal address

DELETED

Telephone

DELETED

Requested document(s)

Working Paper of the GSC WK 27267/2022 INT

1st option

DE

2nd option

EN

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, 24 October 2023

DELETED

Email: **DELETED**

Ref. 23/2707-vl/nb

Request made on: 28.09.2023

Deadline extension: 19.10.2023

Dear **DELETED**,

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

I regret to inform you that access to document **WK 2767/2022** cannot be given for the reasons set out below.

The requested document, drawn up by the European External Action Service (EEAS) for the Council Working Party of Foreign Relations Counsellors and the Working Party on Eastern Europe and Central Asia, contains underlying/supporting evidence as regards restrictive measures to natural persons responsible for actions or policies undermining or threatening the territorial integrity of Ukraine.

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).

Following our consultations with the EEAS and with the General Secretariat directorate responsible for these policy matters, regretfully the disclosure of this document cannot be authorized.

The requested document contains sensitive information contributing to the abovementioned evidence package as a result of an ongoing analytical process that takes into account the evolution of the file and all the political and security implications as well as the strategic needs to be met in this context, an exercise that requires a cautious and pragmatic approach and a climate of mutual trust in the relations between the European Union and its international partners in their exchange of information. Given the sensitive nature of its contents, the release of document **WK 2767/2022** to the public would cause prejudice to public interest as regards international relations.²

We have also looked into the possibility of disclosing parts of the requested document³. 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

² Article 4(1)(a), third indent of Regulation (EC) No 1049/2001.

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

From: **DELETED**

Sent: 25 October 2023 15:10

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

Subject: RE: Ref. 23/2707-vl/nb

Dear Sir or Madam,

please find attached a letter to the General Secretariat of the Council concerning a request for review to the dismissal of my request for access to a document.

Yours sincerely,

DELETED

Council of the European Union
General Secretariat

Directorate-General Communication and Information – COMM
Directorate Information and Outreach
Information Services Unit / Transparency

Mr Fernando Florindo

Our Ref: PGW/PGW/DE01-2002057-00002/115159412 v2
Your Ref: 23/2707-VI/nb

Access request regarding WK 2767/2022
Confirmatory application

[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED], 25 October 2023

Dear Mr Florindo

Reference is made to your letter dated 24 October 2023 in which you informed us that our access request has been dismissed.

We hereby kindly ask the Council to reconsider the decision based on the following reasons:

We need access to the document to defend one of our media clients in a lawsuit filed by [REDACTED] in Germany. The subject of the lawsuit is an article about [REDACTED] published by our client.

[REDACTED] is one of the individuals affected by the Council's recent sanctions related to the Russian invasion of the Ukraine. To support his claim against our client, [REDACTED] cites various passages from the document WK 2767/2022. In order to assess the validity of the cited statements, we need access to the document as a whole or at least to such parts of the document that concern [REDACTED].

The document will only be used for the purpose of defending against the lawsuit in the court proceeding. Finally, as [REDACTED] apparently already has been granted access to the document granting access to your client as well would be a matter of fairness and procedural equality of arms.

Yours sincerely

[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]