



Council of the European Union
General Secretariat

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CM 2426/20

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API
PROCED

COMMUNICATION

WRITTEN PROCEDURE

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Subject: PUBLIC ACCESS TO DOCUMENTS
– Confirmatory application No 14/c/01/20
– Outcome of the written procedure initiated by CM 2425/20

Delegations are informed that the written procedure opened by CM 2425/20 on 3 June 2020 was completed on 8 June 2020 and that the majority of delegations agreed to the approval of the Council's reply to the above-mentioned confirmatory application, as set out in document 7525/20.

The statements by Member States are reproduced in the Annex to this CM.

The above statements will be included in the summary of acts adopted by the written procedure as statements to be entered in the Council minutes, in accordance with the third subparagraph of Article 12(1) of the Council's Rules of Procedure.

Statement by Greece

From the information contained in document 7525/20/25.05.2020, this delegation is unable to come to an informed conclusion whether disclosure of the document could have the effect of undermining court proceedings in Case C-161/20, Commission v. Council or of relevant legal advice. In particular, at the time of writing, neither the identity of the applicant nor the Commission's action for annulment in the said Case before the ECJ (and the relevant argumentation contained therein) has been received, in order to assess, in an informed manner, whether the criteria for refusing public access, contained in Article 4(1) third indent and/or 4(2), second indent of Regulation 1049/2001/EC, are fulfilled. Therefore, **Greece cannot agree** to the full disclosure of document 7124/05, unless further adequate argumentation is provided. In any case it is underlined that any decision would, under no circumstances, constitute a precedent for the future, since each application shall be assessed and judged on its own merit, pursuant to the established practice of the Council.

Statement by Belgium

The Belgian authorities do not agree with the draft reply to confirmatory application No 14/c/01/20 as set out in ST 7525/20. We are of the view that the General Secretariat of the Council has not put forward sufficient argumentation as to why the initial exception set out in the second indent of article 4(2) Regulation 1049/2001 would no longer be applicable. This in view of the possible risk to undermine the protection of legal advice and court proceedings with respect to pending case C-161/20, Commission/Council, and the particular sensitive and horizontal nature of the document. Belgium therefore votes No with respect to the draft reply which would give full public access to the document.