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API
PROCED

COMMUNICATION

WRITTEN PROCEDURE

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Subject:	PUBLIC ACCESS TO DOCUMENTS – Confirmatory application No 19/c/01/20 – Outcome of the written procedure initiated by CM 3844/20

Delegations are informed that the written procedure opened by CM 3844/20 of 7 October 2020 was completed on 12 October 2020 and that a majority of the members agreed to the approval of the Council's reply to the above-mentioned Confirmatory application, as set out in document 10386/20.

The statements by Italy, Portugal, Finland and Sweden 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 Italy

Italy reiterates the considerations previously expressed. Therefore, Italy does not agree with the approval of the draft reply to Confirmatory application No 19/c/01/20, as set out in document 10386/20.

In particular, Italy cannot fully concur with the analysis in para. 18 of the draft reply, considering that sharing CVs – without private information therein – would meet the public interest of granting transparency to the negotiating process which conducted to the approval of the EU Charter of Fundamental Rights, provided that the personalities involved were either public officials or persons entrusted with a public mandate and exercising public duties. As stated by the applicant(s), there is a public interest in accessing the information requested, which needs to be taken into account when assessing the level of personal data protection granted. Recent case-law would confirm this reading (see i.a. the ECJ decision in the case Google Spain vs. AEPD).

Statement by Portugal

Portugal is of the opinion that in this case, further extended partial access to the documents could have been given.

Indeed, given the high profile of the position, Portugal considers that the concerned individuals would have been aware that by participating in the Convention, their professional information and CV details could be of increased public interest and accessible to the public. We also believe that it is important to weigh the amount of time already lapsed since the submission of these CVs (20 years).

In this regard, Portugal considers that except for the personal contact details (addresses, telephone numbers and emails) and information clearly related to the private sphere of the individuals and not relevant for their nomination to the Convention (e.g. marital status and number of children), all data could have been disclosed. Furthermore, in accordance with guarantees concerning data protection of the GDPR, Portugal would agree to strikethrough all data that the persons concerned might have expressly objected to disclose., if/when consulted.

Statement by Finland

Finland stresses the importance of striking a balance between the principle of transparency and the right to the protection of personal data. Finland considers that public access could be granted to certain additional elements of the requested document.

Statement by Sweden

Sweden considers that the document can be fully disclosed given that the principle of transparency in this case appears to outweigh the protection of personal data. Sweden is not convinced that the subjects concerned were not aware that by participating in the Convention they approved of having these personal data examined, and that they thereby opened up for an increased examination of their person. In this context, Sweden would welcome a more detailed analysis of how the request relates to Article 9 (3) of Regulation 2018/1725.
