



Council of the
European Union

Brussels, 26 November 2020
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NOTE

From: General Secretariat of the Council
To: Working Party on Information
Subject: Public access to documents
- Confirmatory application No 25/c/01/20

Delegations will find attached the:

- request for access to documents sent to the General Secretariat of the Council on 17 September 2020 and registered on the same day, and follow-up letter sent on 12 October 2020 (Annex 1);
- replies from the General Secretariat of the Council dated 8 and 28 October 2020 (Annex 2);
- confirmatory application dated 19 November 2020 and registered on 20 November 2020 (Annex 3).

To: General Secretariat of the Council of the European Union
 DG COMM – Transparency
 Rue de la Loi/Wetstraat 175
 B-1048 Bruxelles/Brussel

Sent by e-mail to: [REDACTED]

Dear Sir/Madam,

Access to documents concerning the conduct of CAP reform negotiations within the Council

In accordance with Regulation 1049/2001, Regulation 1367/2006, and Article 42 of the Charter of Fundamental Rights, ClientEarth AISBL hereby request access to the following documents and/or information in any other medium in the Council's possession since 11 December 2019:

1. Any documents and/or information that record the Member States' positions, including minutes/notes/reports of any meetings of the relevant Council preparatory bodies, the Special Committee on Agriculture ('SCA'), the Coreper, and the Agriculture and Fisheries Council, in relation to the following legislative files:
 - Proposal for a Regulation establishing rules on support for strategic plans to be drawn up by Member States under the Common agricultural policy (CAP Strategic Plans) and financed by the European Agricultural Guarantee Fund (EAGF) and by the European Agricultural Fund for Rural Development (EAFRD) and repealing Regulation (EU) No 1305/2013 and Regulation (EU) No 1307/2013 (interinstitutional file 2018/0216/COD);
 - Proposal for a Regulation on the financing, management and monitoring of the common agricultural policy and repealing Regulation (EU) No 1306/2013 (interinstitutional file 2018/0217/COD);
 - Proposal for a Regulation amending Regulations (EU) No 1308/2013, (EU) No 1151/2012, (EU) No 251/2014, (EU) No 228/2013, and (EU) No 229/2013 (interinstitutional file 2018/0218).



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ClientEarth

2. Documents and/or information that contain/refer to the positions of individual companies (including public affairs consultancies and law firms) and/or industry associations, in connection with the legislative files identified above.
3. The agendas and/or minutes/notes/summary reports of any meetings of the relevant Council preparatory bodies, the Special Committee on Agriculture, the Coreper, and the Agriculture and Fisheries Council that discussed any of the three legislative files identified in point 1 above in the presence of representatives of individual companies (including public affairs consultancies and law firms) and/or industry associations.
4. Initial and revised mandates given by SCA, Coreper and/or Council for negotiations with the European Parliament on legislative file 2019/0254(COD) (the revised mandate is referred to here).

Finally, we request that the documents/information falling within the scope of this request be made publicly available on the Council's documents register with immediate effect in order to allow the public to participate in the decision-making processes leading to the adoption of the reformed Common Agricultural Policy, in accordance with Articles 11 and 12 of Regulation 1049/2001 and Article 4 of Regulation 1367/2001.

Kind regards,

[Redacted signature block]

██████████
General Secretariat of the Council of the European Union
DG COMM – Transparency
Rue de la Loi/Wetstraat 175
B-1048 Bruxelles/Brussel

By email: ██████████

Dear ██████████,

Access to Member State positions relating to CAP negotiations: Ref. 20/1615-6.3-aa/jl

Thank you for your letter of 8 October 2020 and the documents provided.

Your letter implies that our request of 17 September 2020 includes within its scope all of the documents that are somehow relevant to the legislative processes identified. This is of course not the case, since the request identified four categories of documents within a specific timeframe. Unfortunately, it is difficult for us to be more specific than this, because the Council's documents register provides so little information that is helpful for this purpose. As an indication of this problem, almost none of the documents released with your letter currently appear in the documents register. It is therefore impossible for the public to have knowledge of their existence and to request them specifically.

Nevertheless, ClientEarth is of course willing to collaborate to find a fair solution within the meaning of Article 6(3) of Regulation 1049/2001. However, we are not in a position to accept the solution that you have suggested because it does not comply with the requirements of Article 6(3), as set out in the case law of the Court of Justice of the EU.

In case C-127/13 P - *Strack v Commission*, the Court held that "*Regulation 1049/2001 does not allow for the possibility of derogating from the time-limits laid down in Articles 7 and 8 thereof.*"

Additionally, with regard to applications relating to a very long document or to a very large number of documents, the Court held that, "*[a]lthough, in such a case, Article 6(3) allows the institution concerned to find a fair solution with the applicant seeking access to documents in its possession, that solution can concern only the content or the number of documents applied for.*"

In that case, the Commission claimed that it was not obliged to comply with the time-limits because the request concerned a disproportionate number of documents. The Court rejected this position, stating "*reliance on the principle of proportionality cannot allow the time-limits laid down by Regulation No 1049/2001 to be changed without creating a situation of legal uncertainty.*"

In view of the above, we suggest limiting the scope of our request to the documents drawn up or received by the Council since 11 December 2019, which contain the Member States' positions in relation to interinstitutional file 2018/0216/COD only¹.

Although the initial time limit of 15 working days has already expired, it is still possible for the Council to agree to this fair solution and to avail itself of and comply with the extended time-limit provided for in Article 7(3) of Regulation 1049/2001, which expires on 29 October 2020.

We look forward to hearing your position with regard to our suggestion for a fair solution that complies with the requirements of Article 6(3) of Regulation 1049/2001.

Yours sincerely,

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ClientEarth is an environmental charity that uses the power of law to tackle key environmental challenges (EU Transparency Register: 90845517357-19). ClientEarth is a registered international non-profit organisation in Belgium, ClientEarth AISBL, enterprise number 0714.925.038

Brussels Beijing Berlin London Warsaw Madrid Los Angeles Luxembourg

ClientEarth is a charity registered in England and Wales, number 1053988, company number 02863827.

¹ The Commission's Proposal for a Regulation establishing rules on support for strategic plans to be drawn up by Member States under the Common agricultural policy (CAP Strategic Plans) and financed by the European Agricultural Guarantee Fund (EAGF) and by the European Agricultural Fund for Rural Development (EAFRD) and repealing Regulation (EU) No 1305/2013 and Regulation (EU) No 1307/2013.



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, 8 October 2020

Ms **DELETED**
Email: **DELETED**

Ref. 20/1615-6.3-aa/jl

Request made on: 17.09.2020

Dear Ms **DELETED**,

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

Your request has not identified any document. It rather indicated four interinstitutional legislative files: **2018/0216(COD)**, **2018/0217(COD)**, **2018/0218(COD)**, and **2019/0245(COD)**.

The General Secretariat of the Council (GSC) has consequently initiated the examination of your request by means of a search based on the said interinstitutional codes and covering all the relevant documents dated from 11 December 2019 until 17 September 2020 (date of your request).

At this stage, this examination allowed us to identify more than **500** documents, **33** of which being already **public** by the time you have submitted your request. Please find attached **four lists containing the reference numbers of those public documents** which can be downloaded directly from the Council's public register.

¹ The General Secretariat of the Council is currently examining 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).

In addition, we have managed so far to conclude the examination of several non-public documents (LIMITE) which can be disclosed. Please find attached document **ST 5623/1/20 REV 1** and **24 working papers** ("WKS") related to interinstitutional file **2018/0218(COD)**, and **ST 10607/20 INIT** linked to interinstitutional file **2019/0254(COD)**.

In view of the above and taking into account the very large number of remaining documents requiring examination, the GSC is unable to process your request within the required deadline of an additional period of 15 working days.²

Under these circumstances, we hope that you will be able to accept that your request will be gradually processed, in accordance with Article 6(3) of Regulation (EC) No 1049/2001. We will send you the reply in parts as the examination of the documents is concluded.

In the meantime, please note that all the above-mentioned disclosed documents will become accessible to the public.

Yours sincerely,

Fernando FLORINDO

Enclosures: 30

² Articles 6(3) and 7(3) 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, 28 October 2020

Ms **DELETED**
Email: **DELETED**

Ref. 20/1615-ADD-aa/jl

Request made on: 17.09.2020 (first reply sent on 8 October 2020)

Dear Ms **DELETED**,

Following our letter of 8 October and your reply of 12 October 2020, the General Secretariat of the Council (GSC) has concluded the examination of the documents related to your request on the interinstitutional legislative file **2018/0216(COD)**.³

The examination of your request was carried out by searching and assessing all the relevant documents dated from 11 December 2019 until 28 October 2020. It allowed us to identify and select **357 Working Papers (WKS)** among 925 documents linked to the afore-mentioned legislative file. Please find attached those 357 WKS. We have also identified **6 public documents**⁴ of the said legislative file which were issued more recently and can be downloaded directly from the Council's public register by using the interinstitutional code number **2018/0216 (COD)**.

³ The General Secretariat of the Council 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).

⁴ ST 10934/20, 10935/20, 11972/20, 11974/20, 12022/20, and 12050/20.

As regards points 2 and 3 of your letter of 12 October 2020, please note that the membership of the Council's preparatory bodies is exclusively reserved to EU Member States' representatives, these being appointed by their respective governments and competent authorities.⁵

Consequently, owing to the status of Member States' representation in the Special Committee of Agriculture⁶, its meetings are not attended by individual companies and/or industry associations or any other private stakeholders.

Yours sincerely,

Fernando FLORINDO

⁵ Article 5(3) Council's Rules of Procedure lays down that the names and functions of the officials forming part of the delegation of a member of the Council must be notified in advance to the General Secretariat. Admission to Council meetings is subject to the production of a pass issued by the General Secretariat.

⁶ Please find in the Council publication "Comments on the Council's rules of Procedure...", notably, pages 19-20. (<https://www.consilium.europa.eu/media/29824/qc0415692enn.pdf>) an explanation on the legal basis, remit and functions of the Special Committee of Agriculture.

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 General Secretariat of the Council of the European Union
 DG COMM - Transparency
 Rue de la Loi/Wetstraat 175
 B-1048 Bruxelles/Brussel

By e-mail to: [REDACTED]

Dear [REDACTED]

RE: Ref. 20/1615-6.3-aa/jl and 20/1615-ADD-aa/jl - Confirmatory application regarding the Council's obligation to give public access, with immediate effect, to documents drawn up or received by the Council since 11 December 2019 and which contain the Member States' positions in relation to interinstitutional file 2018/0216/COD

1. In accordance with Article 7(2) of Regulation (EC) No 1049/2001 of the European Parliament and of the Council regarding public access to European Parliament, Council and Commission documents, ClientEarth hereby submits a confirmatory application with regard to the Council's reply to its requests for documents relating to the decision-making process leading to the adoption of the Common Agricultural Policy (CAP) for 2021-2027, with references 20/1615-6.3-aa/jl and 20/1615-ADD-aa/jl.

2. Following the publication by the Commission on 1st June 2018 of its proposals for a CAP post-2020, ClientEarth began monitoring the Council's documents register using the relevant inter-institutional codes (2018/0216, 2018/0217 and 2018/0218) in order to track the decision-making process. However, not all relevant documents were available on the register. Therefore, in a letter of 17 September 2020 (the 'Initial Request'), ClientEarth requested access to the following documents and/or information in any other medium in the Council's possession since 11 December 2019 (the 'Requested Documents'):

- 1) Any documents and/or information that record the Member States' positions, including minutes/notes/reports of any meetings of the relevant Council preparatory bodies, the Special Committee on Agriculture ('SCA'), the Coreper, and the Agriculture and Fisheries Council, in relation to the following legislative files:
 - Proposal for a Regulation establishing rules on support for strategic plans to be drawn up by Member States under the Common agricultural policy (CAP Strategic Plans) and financed by the European Agricultural Guarantee Fund (EAGF) and by



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the European Agricultural Fund for Rural Development (EAFRD) and repealing Regulation (EU) No 1305/2013 and Regulation (EU) No 1307/2013 (interinstitutional file 2018/0216/COD);

- Proposal for a Regulation on the financing, management and monitoring of the common agricultural policy and repealing Regulation (EU) No 1306/2013 (interinstitutional file 2018/0217/COD);
 - Proposal for a Regulation amending Regulations (EU) No 1308/2013, (EU) No 1151/2012, (EU) No 251/2014, (EU) No 228/2013, and (EU) No 229/2013 (interinstitutional file 2018/0218).
- 2) Documents and/or information that contain/refer to the positions of individual companies (including public affairs consultancies and law firms) and/or industry associations, in connection with the legislative files identified above.
 - 3) The agendas and/or minutes/notes/summary reports of any meetings of the relevant Council preparatory bodies, the Special Committee on Agriculture, the Coreper, and the Agriculture and Fisheries Council that discussed any of the three legislative files identified in point 1 above in the presence of representatives of individual companies (including public affairs consultancies and law firms) and/or industry associations.
 - 4) Initial and revised mandates given by SCA, Coreper and/or Council for negotiations with the European Parliament on legislative file 2019/0254(COD) (the revised mandate is referred to here).

3. ClientEarth further requested:

"Finally, we request that the documents/information falling within the scope of this request be made publicly available on the Council's documents register with immediate effect in order to allow the public to participate in the decision-making processes leading to the adoption of the reformed Common Agricultural Policy, in accordance with Articles 11 and 12 of Regulation 1049/2001 and Article 4 of Regulation 1367/2001."

4. On 8 October, ClientEarth received a letter by e-mail from the Council, to which it attached four lists containing the reference numbers of public documents as well as several non-public documents (LIMITE) which the Council said they can be disclosed. The Council however specified that it was unable to process the request within the required deadline of an additional period of 15 working days and asked ClientEarth to accept that its request be gradually processed.

5. On 12 October, ClientEarth sent a letter by e-mail to the Council expressing its willingness to collaborate to find a fair solution within the meaning of Article 6(3) of Regulation 1049/2001. ClientEarth suggested to limit the scope of its request to the documents drawn up or received by the Council since 11 December 2019, which contain the Member States' positions in relation to interinstitutional file 2018/0216/COD only.

6. On 28 October, ClientEarth received a letter by e-mail from the Council (the 'decision'), which indicated that the Council had concluded the examination of the documents related to

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ClientEarth's request on the interinstitutional legislative file 2018/0216(COD). The decision stated that it had identified and selected 357 Working Papers (WKs) among 925 documents linked to the afore-mentioned legislative file, and provided access to these documents (the 'Received Documents'). The decision stated that the Council had also identified 6 public documents of the said legislative file which were issued more recently and could be downloaded on the Council's public register.

7. ClientEarth does not challenge this decision as regards the disclosure of the Requested Documents (see para. 3 above).

8. However, ClientEarth requests a reconsideration of its request as far as its request to make the Received Documents publicly available in the Council's documents register is concerned (see para. 6 above).

9. More specifically, in our Initial Request of 17 September 2020, we requested that the documents/information falling within the scope of this request be made publicly available on the Council's documents register with immediate effect in order to allow the public to participate in the decision-making processes leading to the adoption of the reformed Common Agricultural Policy, in accordance with Articles 11 and 12 of Regulation 1049/2001 and Article 4 of Regulation 1367/2001. However, following ClientEarth's letter for a fair solution and the Council's decision, we also agree to limit our request for publicity with immediate effect to the Received Documents.

The Council's obligation to publish the Received Documents in the documents register before the decision-making procedure is concluded

10. For the reasons set out below, the Received Documents are legislative documents containing environmental information and the Council is under an obligation to actively disseminate these documents to the public during the decision-making process, i.e. at a time when the public can use the information to enhance their participation.

a. The Received Documents are legislative documents containing environmental information

ClientEarth submits that the documents received and which contain the positions of Member States in relation to interinstitutional file 2018/0216/COD since 11 December 2019 constitute "legislative documents" within the meaning of Regulation 1049/2001. In addition, all of them contain "environmental information" within the meaning of Article 2(1)(d) of Regulation (EC) No 1367/2006 of the European Parliament and of the Council of 6 September 2006 on the application of the provisions of the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters to Community institutions and bodies (the "Aarhus Regulation").

Article 12(2) of Regulation 1049/2001 provides a clear definition of "legislative documents", that is "*documents drawn up or received in the course of procedures for the adoption of acts which are legally binding in or for the Member States*". The documents at issue in this confirmatory application meet this definition because they are documents drawn up and received in the course of the procedure for the adoption of the CAP SP Regulation, which is legally binding in and for the Member States.

In case of any doubt on this point, the CJEU has explicitly confirmed that the term "legislative documents" is not limited to "*acts adopted by the EU legislature*", such as the

CAP SP Regulation itself, but extends to all documents drawn up or received in the course of their adoption.¹ It is therefore clear that all the Received Documents are to be properly characterized as legislative documents.

Article 2(1)(d) of the Aarhus Regulation defines "environmental information" as, inter alia:

"any information in written, visual, aural, electronic or any other material form on:

...

(iii) measures (including administrative measures), such as policies, legislation, plans, programmes, environmental agreements, and activities affecting or likely to affect the elements and factors referred to in points (i) and (ii) as well as measures or activities designed to protect those elements".

The elements referred to in point (i) and in point (ii) are:

"(i) the state of the elements of the environment, such as air and atmosphere, water, soil, land, landscape and natural sites including wetlands, coastal and marine areas, biological diversity and its components, including genetically modified organisms, and the interaction among these elements.

(ii) factors, such as substances, energy, noise, radiation or waste, including radioactive waste, emissions, discharges and other releases into the environment, affecting or likely to affect the elements of the environment referred to in point (i)"

The Received Documents contain information about the CAP SP Regulation, which has the general objective *"to bolster environmental care and climate action and to contribute to the environmental- and climate-related objectives of the Union"* (Article 5, first subparagraph, (b) of the CAP SP Proposal). Article 6(1) further specifies that:

"The achievement of the general objectives shall be pursued through the following specific objectives:

...

(d) contribute to climate change mitigation and adaptation, as well as sustainable energy;

(e) foster sustainable development and efficient management of natural resources such as water, soil and air;

(f) contribute to the protection of biodiversity, enhance ecosystem services and preserve habitats and landscapes".

Therefore, the Received Documents are information on "legislation" that affects "the state of the elements of the environment, such as air and atmosphere, water, soil, land, landscape and natural sites", as well as "factors, such as substances, energy, noise, radiation or waste", in the sense of Article 2(1)(d)(iii) of the Aarhus Regulation. Accordingly, they are to be characterized as "environmental information" within the meaning of the Aarhus Regulation.

¹ Case C-57/16 *ClientEarth*, para. 85.

b. The Council's obligation to publish the Received Documents

ClientEarth introduced its Requests in order to access relevant legislative documents at a time when they could be used to enhance participation in the decision-making process leading to the adoption of the CAP SP Regulation. It is still perfectly possible for the Council to publish the Received Documents in the shortest possible timeframe and certainly while the decision-making process is ongoing.

At present, neither are the Received Documents available for consultation on the Council's documents register, nor are they referenced in the Council's documents register.

Article 12 of Regulation 1049/2001 provides that:

"1. The institutions shall as far as possible make documents directly accessible to the public in electronic form or through a register in accordance with the rules of the institution concerned.

2. In particular, legislative documents ... should, subject to Articles 4 and 9, be made directly accessible."

While Article 12(1) gives a certain flexibility to the Member States as to making documents publicly available, Art. 12(2) requires that "legislative documents" are made directly accessible.

This was confirmed by the CJEU in Case C-57/16 P *ClientEarth v Commission*, where it held that, "it is apparent from Article 12(2) of Regulation No 1049/2001, which implements the principle derived from recital 6 thereof, that not only acts adopted by the EU legislature, but also, more generally, documents drawn up or received in the course of procedures for the adoption of acts which are legally binding in or for the Member States, fall to be described as 'legislative documents' and, consequently, subject to Articles 4 and 9 of that regulation, must be made directly accessible" (emphasis added).²

Since the Received Documents equally amount to legislative documents, the Council was under an obligation to directly disseminate the Received Documents.

As mentioned above, the Received Documents moreover contain environmental information in the sense of Article 2(1)(d) of Regulation 1367/2006. Regulation 1367/2006 contains a stand-alone obligation to actively disseminate environmental information, which reinforces Article 12(2) of Regulation 1049/2001.³ As recognised by the CJEU, this gives these documents an additional quality, since "Regulation No 1367/2006 aims, as provided for in Article 1 thereof, to ensure the widest possible systematic availability and dissemination of environmental information" and because "[i]t follows, in essence, from recital 2 of that regulation that the purpose of access to that information is to promote more effective public participation in the decision-making process, thereby increasing, on the part of the competent bodies, the accountability of decision-making and contributing to

² ECLI:EU:C:2018:060, para. 85.

³ Article 4(1) and (2) Regulation 1367/2006.

*public awareness and support for the decisions taken.*⁴ There is therefore an even stronger obligation to actively disseminate the documents concerned.

This is further underscored by the European Ombudsman Decision in case 640/2019/TE on the transparency of the Council of the EU's decision-making process leading to the adoption of annual regulations setting fishing quotas, where the Ombudsman considered that *"it is evident that particular decision-making processes, especially those that lead to acts which are directly binding on the Member States and, either directly or indirectly binding, on citizens, require an even higher standard of transparency. This is certainly the case when the institutions are acting in their legislative capacity."*⁵

Case 640/2019/TE concerned legislative documents containing environmental information⁶, as is the case for the Received Documents.

As reflected in Art. 12(2) Regulation 1049/2001, it is furthermore crucial that the documents are made "directly" available. This formulation protects the public's right to participate in public decision-making, which is a fundamental tenet of democracy, and which is enshrined in Article 10(3) TEU and Article 15(1) TFEU.

As the CJEU has held: *"the expression by the public or the interested parties of their views on the choices made and the policy options envisaged by the Commission in the context of its initiatives, in particular its legislative initiatives in respect of environmental matters, before that institution has made a decision regarding the planned initiative, is an integral part of the exercise by EU citizens of their democratic right."*

It is also reflected in Case 640/2019/TE, where the Ombudsman *"reiterates her conviction that the possibility for the public, including those members of the public with a significant interest in the outcome of the negotiations, be they economic interests or environmental interests, to express views is an integral part of the exercise by EU citizens of their democratic rights. [31] The Ombudsman's understanding is that past disclosure of documents relating to ongoing legislative files containing individual delegations' positions has not tended to disrupt the decision-making process."*⁷

The need to publish the documents during the legislative process also follows from the Special Report of the European Ombudsman in strategic inquiry OI/2/2017/TE on the transparency of the Council legislative process. Paragraph 2 states:

"Ensuring that citizens are able to follow the progress of legislation is not something to be desired; it is a legal requirement. Under the EU Treaties, every citizen has "the right to participate in the democratic life of the Union" and EU decisions must be taken "as openly and as closely as possible to the citizen". The Treaties specifically require that the Council meets in public "when considering and voting on a draft legislative act". This kind of transparency is meant to apply during the entire legislative process, in good time, and not only retrospectively after the process has been concluded. Fundamentally, this is aimed at ensuring that citizens can know how any particular legislative process is progressing, the various options that are being discussed and the positions that are being

⁴ Case C-57/16 P ClientEarth v Commission, para. 98 and case law referred to therein.

⁵ Ombudsman's Decision in case 640/2019/TE on the transparency of the Council of the EU's decision-making process leading to the adoption of annual regulations setting fishing quotas, 29 April 2020, §20.

⁶ Ombudsman's Decision in case 640/2019/TE, p.1.

⁷ Ombudsman's Decision in case 640/2019/TE, §29.

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promoted or opposed by national governments.”⁸ The Ombudsman handed down her recommendation to the Council in case 640/2019 in the context of this very decision-making process, stating: “The Council should proactively make public documents related to the adoption of the TAC Regulation at the time they are circulated to Member States or as soon as possible thereafter.”

The Received Documents constituting legislative documents containing environmental information, Article 11 and 12 of Regulation 1049/2001 and Article 4 of the Aarhus Regulation impose on the Council an obligation to make the Received Documents directly accessible to the public by way of the Document Register, while the decision-making procedure is ongoing. Such direct access should be provided as and when the documents are circulated among Member State delegations.

12. For these reasons, we respectfully request the Council to publish the Received Documents in the shortest possible time frame and, in any case, during the decision-making process, i.e. at a time when the public can use the information to enhance their participation.

Yours faithfully,

[Redacted signature block]

[Redacted signature block]
