



Council of the
European Union

051792/EU XXVII. GP
Eingelangt am 25/02/21

Brussels, 25 February 2021
(OR. en)

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INF 42
API 22

NOTE

From:	General Secretariat of the Council
To:	Working Party on Information
Subject:	Public access to documents - Confirmatory application No 06/c/01/21

Delegations will find attached the:

- request for access to documents sent to the General Secretariat of the Council on 11 December 2020 (Annex 1);
- replies from the General Secretariat of the Council dated 12 and 29 January 2021 (Annex 2);
- confirmatory application dated 19 February 2021 and registered on 22 February 2021 (Annex 3).

[Email sent to the General Secretariat of the Council on 11 December 2020 at 14:23]

From: **DELETED**

Sent: Friday, December 11, 2020 14:23 PM

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

Subject: ClientEarth request to access documents related to fishing opportunities for 2021

Dear Sir/Madam,

On behalf of ClientEarth, please find attached a request to have access to documents relating to the fishing TACs in the Northeast Atlantic for 2021.

Many thanks in advance for processing this request and be assured that we remain at your disposal to answer any questions you may have.

Kind regards,

DELETED

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ClientEarth[⊕]

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ClientEarth, 60 Rue du Trône (Box 11), Brussels, 1050



[Website](#) | [Facebook](#) | [Twitter](#) | [Instagram](#) | [LinkedIn](#)

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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: access@consilium.europa.eu

Dear Sir/Madam,

Access to documents concerning Member State positions on Northeast Atlantic TACs for 2021

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:

- ST 13509 2020 REV 1 - NOTE: Proposal for a Council Regulation fixing for 2021 the fishing opportunities for certain fish stocks and groups of fish stocks, applicable in Union waters and, for Union fishing vessels, in certain non-Union waters - political agreement;
- ST 13509 2020 INIT – NOTE: Proposal for a Council Regulation fixing for 2021 the fishing opportunities for certain fish stocks and groups of fish stocks, applicable in Union waters and, for Union fishing vessels, in certain non-Union waters - political agreement
- ST 12528 2020 ADD 8 - NOTE: Proposal for a Council Regulation fixing for 2021 the fishing opportunities for certain fish stocks and groups of fish stocks, applicable in Union waters and, for Union fishing vessels, in certain non-Union waters - Lithuanian comments;
- ST 12528 2020 ADD 7 - NOTE: Proposal for a Council Regulation fixing for 2021 the fishing opportunities for certain fish stocks and groups of fish stocks, applicable in Union waters and, for Union fishing vessels, in certain non-Union waters - French comments;
- ST 12528 2020 INIT - NOTE: Proposal for a Council Regulation fixing for 2021 the fishing opportunities for certain fish stocks and groups of fish stocks, applicable in Union waters and, for Union fishing vessels, in certain non-Union waters - Latvian comments;



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ClientEarth

- ST 12348 2020 INIT - NOTE: Proposal for a Council Regulation fixing for 2021 the fishing opportunities for certain fish stocks and groups of fish stocks, applicable in Union waters and, for Union fishing vessels, in certain non-Union waters - Supporting document: Worksheet of deductions corresponding to exemptions from the landing obligations;

We also request access to any other documents in the Council's possession that record the Member States' positions in relation to the Commission's Proposal for a Council Regulation fixing for 2021 the fishing opportunities for certain fish stocks and groups of fish stocks, applicable in Union waters and, for Union fishing vessels, in certain non-Union waters (interinstitutional file 2020/0308).

Finally, we request that the documents 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 process leading to the adoption of the TACs for 2021, in accordance with the Ombudsman's recommendation in case 640/2019/FP, as well as Articles 11 and 12 of Regulation 1049/2001 and Article 4 of Regulation 1367/2001.

Yours faithfully,

[Redacted signature block]



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, 29 January 2021

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Ref. 20/2337-aa/nb-ADD

Request made on: 11.12.2020

Deadline extension: 12.01.2021

Dear **DELETED**,

Following our letter of 12 January 2021, the General Secretariat of the Council has concluded the examination of your request concerning interinstitutional file 2020/0308 (NLE) on the proposal for a Council Regulation fixing for 2021 the fishing opportunities for certain fish stocks and groups of fish stocks, applicable in Union waters and, for Union fishing vessels, in certain non-Union waters.¹

Please find attached all the remaining non-public documents in possession of the Council which were used during the decision-making process related to the said interinstitutional (non-legislative) file. These documents are the following:

- Member States comments: 12528/20 + ADD 1 - 15;

- Non papers: 12768/20, 13187/20, 13395/20, 13561/20, 13775/20 + COR 1, 13776/20, 13901/20 + ADD 1, 13921/20, 14029/20, 14164/20, and 12348/20;

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).

- Note to Council: 13850/20;
- Presidency compromise: 13999/20, and 13999/20 REV 1;
- 1st consolidated version: 13590/20 + ADD 1 - 2;
- 2nd consolidated version: 14049/20 + ADD 1 -2; and
- Comments on errors: 5101/21 + ADD 1.

Please be informed that all these 40 documents will now become public and available to be directly downloaded from the Council's Public Register.

As regards the European Ombudsman's recommendation in case 640/2019/TE, please find attached document 9063/20 containing the text of the reply letter which was approved by the Council on 8 October 2020 and the related approval Communication (CM 3994/20).

Yours sincerely,

Fernando FLORINDO

Enclosures: 42



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, 12 January 2021

DELETED

Email: **DELETED**

Ref. 20/2337-aa/nb

Request made on: 11.12.2020

Dear **DELETED**,

Thank you for your request for access to documents of the Council of the European Union.²

The General Secretariat of the Council (GSC) has identified 44 standard documents ("STs") matching the scope of your request, three of these being public documents: **ST 12189/20 INIT**, **12189/20 ADD 1** and **12189/20 ADD 2**.

Please find attached a first set of the requested documents: **ST 13509/20 INIT**, **13509/20 REV 1**, and **12348 2020 INIT**.

However, taking into account the large number of remaining documents requiring examination and the internal consultations necessary to the assessment of their content, the GSC has to extend the deadline for the final reply to your request for an additional period of 15 working days, until 02.02.2019, pursuant to Article 7(3) of Regulation (EC) No 1049/2001. We will try our best to send you a final reply as soon as possible.

² 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).

Yours sincerely,

Fernando FLORINDO

Enclosures: 3

Email sent to access@consilium.europa.eu on 19 February 2021- 17:34]

From: **DELETED**

Sent: Friday, February, 19, 2021 17:34 PM

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

Subject: RE: Ref. 20/2337-aa/nb-ADD

RE: Ref. 20/2337-aa/nb-ADD

Dear Sir/Madam,

On behalf of ClientEarth AISBL, please find attached a confirmatory application and new access request.

Kind regards,

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ClientEarth, 60 Rue du Trône (Box 11), Brussels, 1050



19 February 2021

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: access@consilium.europa.eu

Dear Sir/Madam,

Confirmatory application in relation to Request for access to documents Ref. 20/2337-aa/nb-ADD and Request for access to documents concerning Member State positions on Northeast Atlantic TACs for 2021

Acknowledging the Council's importance of having an efficient and unburdened process regarding access to documents, we hereby submit a single document compiling two different requests, as these are strictly connected. As such, for the sake of clarity and efficiency, we hereby submit the following:

I. Confirmatory application in relation to Request for access to documents Ref. 20/2337-aa/nb-ADD

Firstly, in accordance with Article 7(2) of Regulation 1049/2001, ClientEarth AISBL hereby submits a confirmatory application in respect of the partial access to documents correspondent to the previously submitted **Request for access to documents Ref. 20/2337-aa/nb-ADD**.

As confirmed by the CJEU (Case T-653/16 Malta v Commission, para. 63), it is well-established practice for the institutions to verify as part of the assessment of a confirmatory application whether all documents falling under the scope of the request have been identified at the initial stage.

We note that the documents provided by the Council with its initial response did not include the so-called "bible" document, collating the comments of the Member States on the Commission's proposal. We presume this is because it was not yet in existence at the date of our request but we would like to have confirmation of this. In the case that the bible document was in the Council's possession as at 11 December 2020, we confirm our request to have access to it.

II. Request for access to documents concerning Member State positions on Northeast Atlantic TAC for 2021

Secondly, in accordance with Article 6(1) of Regulation 1049/2001, Article 3 of Regulation 1367/2006, and Article 42 of the Charter of Fundamental Rights, ClientEarth AISBL requests access to any documents that have come into the Council's possession since our last request of 11 December 2020 that record the



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Member States' positions in relation to the Commission's Proposal for a Council Regulation fixing for 2021 the fishing opportunities for certain fish stocks and groups of fish stocks, applicable in Union waters and, for Union fishing vessels, in certain non-Union waters (interinstitutional file 2020/0308). For the sake of clarity, we include within this request any Member State positions on the Commission non-paper of 9 December 2020 (Council document number ST 13901 2020 INIT-EN).

Finally, we request that the documents/information falling within the scope of this request, both under the section I and II, be made publicly available on the Council's documents register, in accordance with Articles 11 and 12 of Regulation 1049/2001 and Article 4 of Regulation 1367/2001.

Kind regards,

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