



Council of the
European Union

Brussels, 8 June 2021
(OR. en)

9517/21

INF 172
API 96

NOTE

From: General Secretariat of the Council
To: Working Party on Information
Subject: Public access to documents
- Confirmatory application No 26/c/01/21

Delegations will find attached:

- the request for access to documents sent to the General Secretariat of the Council on 7 May 2020 (Annex 1). As this request concerns more than 200 legal service opinions, pursuant to Article 6 (3) of Regulation (EC) No 1049/2001, it was agreed with the applicant that it will be treated in separate requests (one covering each year of the requested documents); the request related to documents of 2008 was registered on 20 April 2021;
- the reply from the General Secretariat of the Council dated 28 May 2021 (Annex 2);
- the confirmatory application dated 3 June 2021 and registered on 4 June 2021 (Annex 3).

[E-mail message sent to access@consilium.europa.eu on 7 May 2020 - 01:00 using the electronic form available in the Register application]

Title/Gender: DELETED

Family Name: DELETED

First Name: DELETED

E-Mail: DELETED

Occupation:

On behalf of:

Address:

Telephone:

Mobile:

Fax:

Requested document(s): 12866, 10112, 9320, 9228, 6442 of 2019

12757, 9834, 9674, 8336, 8334, 8268, 8134, 8048, 7502, 7334 of 2018

14876, 14323, 13634, 12820, 12740, 11543, 8445, 7885, 6194, 6189, 5151 of 2017

15698, 14745, 13491, 12948, 12776, 12622, 12406, 12091, 11582, 11176, 9007, 8753, 7862 of 2016

9540, 5818 of 2015

15506, 14108, 13299, 12931, 9468, 8914, 7408, 6596, 5647 of 2014

16952, 15488, 15192, 14217, 14212, 13829, 13765, 9990, 9303, 9289, 8706, 8027, 8020, 7726, 7682, 5655 of 2013

17407, 16129, 14756, 14723, 14402, 12926, 11163, 10661, 10630, 9929, 8433, 7865, 7039, 5551 of 2012

18624, 16784, 15595, 15187, 13641, 13638, 11668, 10092, 9401, 9039, 8850, 8775, 5711 of 2011

15747, 15733, 12964, 12518, 11261, 10914, 10145, 9754, 7949, 7827, 7149, 6379 of 2010

17553, 17039, 16323, 11346, 10790, 10557, 9431, 7538, 6096, 6083 of 2009

17472, 16282, 15554, 15196, 12814, 10243, 7534, 6929, 6578, 6413, 5162 of 2008

14243, 13780, 13616, 12908, 12648, 9408, 7667, 7341, 6838, 6543 of 2007

16659, 15832, 15397, 14707, 12800, 12016 of 2006

16020, 15546, 14824, 13160, 12327, 9757, 8623, 6982, 6683, 5433 of 2005

15750, 15749, 14498, 14021, 13663, 10982, 7323, 7227, 6963, 6860, 6489, 6412, 6283, 5917 of 2004

14890, 14181, 13637, 11472, 7920, 6350, 6285, 5915, 5418 of 2003

13713, 13650, 13585, 12471, 11876, 11010, 10055, 9438, 9300, 8853, 8485, 8169, 7306, 7259, 7205, 6646, 6321, 5666 of 2002

15291, 14695, 14677, 12922, 12832, 12543, 9693, 9340, 9201, 8800, 7502, 6907, 5940 of 2001

14629, 14268, 14248, 14138, 13772, 12686, 12517, 12364, 11687, 11570, 11513, 10794, 10552, 9631, 9599, 9374, 9035, 8926, 8788, 8488, 8332, 7476, 7177, 6913, 6647 of 2000

14117, 13926, 13512, 13321, 13039, 12443, 12105, 11454, 10364, 9983, 9731, 8635, 7907, 7837, 7829, 7489, 7430, 6615 of 1999

in all versions (eg Rev, Add, Cor, Init and drafts) that have not been made public (ie I'm not asking for access to those that are already partially public).

1st preferred linguistic version: EN - English

2nd preferred linguistic version: ES - Spanish



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 May 2021

DELETED

Email: **DELETED**

Ref. 21/0873-mj/nb

Request made on: 20.04.2021

Dear **DELETED**,

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

Full public access is granted to:

- Document 5162/08
- Document 6413/08
- Document 6578/08
- Document 6929/08
- Document 7534/08
- Document 10243/08
- Document 12814/08
- Document 15196/08
- Document 15554/08
- Document 15554/08 COR 1
- Document 17472/08

You will find them attached.

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).

I regret to inform you that access to document **16282/08** cannot be given for the reasons set out below.

The requested document contains an opinion of the Council Legal Service on suspension of international agreements under international law. The opinion was issued in response to a Coreper's request. The opinion contains, in the introductory paragraph without numbering and paragraphs 1 to 15, the legal advice.

The opinion relates to the Union's external relations. Its disclosure would undermine the protection of the public interest as regards international relations, as it would reveal the legal assessment made for the conclusion of a specific treaty whose negotiations are still ongoing. The opinion therefore touches upon an important and sensitive topic in the field of external relations.

Additionally, the disclosure of this document would make public the ongoing reflections on a particular sensitive issue for the diplomatic relations between EU and third countries. In that regard, the Court has held that the disclosure of elements connected with the objectives pursued by the EU and its Member States in decisions, in particular when they deal with the specific content of an agreement envisaged or the strategic objectives pursued by the EU in negotiations, would damage the climate of confidence in the negotiations which were ongoing at the time of the decision refusing access to documents containing those elements.²

Where disclosure of a document undermines the public interest as regards international relations, refusal of access by the institution is mandatory in accordance with established case-law (Case C-266/05 P *Sison v Council*, EU:C:2007:75 paragraph 46, Case T-851/16 *Access Info Europa v Commission*, EU:T:2018:69, paragraph 39 and Case T-852/16 *Access Info Europe v Commission*, EU:T:2018:71, paragraph 39).

In view of the foregoing, disclosure must therefore be refused according to Article 4(1)(a), third indent of Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents.

² Judgment of 7 February 2018, *Access Info Europe v Commission*, T-852/16, EU:T:2018:71, paragraphs 44 and 45 and the case-law cited. See, also, judgment of 19 March 2013, In 't Veld v European Commission, T-301/10, EU:T:2013:135, paragraphs 123-126.

You can ask the Council to review this decision within 15 working days of receiving this reply (confirmatory application).³

Yours sincerely,

Fernando FLORINDO

Enclosures : 11

³ Council documents on confirmatory applications are made available to the public. Pursuant to data protection rules at EU level (Regulation (EU) No 2018/1725, if you make a confirmatory application your name will only appear in related documents if you have given your explicit consent.

[E-mail message sent to access@consilium.europa.eu on 3 June 2021 - 17:32]

I would like to file a confirmatory application.

From: TRANSPARENCY Access to documents (COMM) <Access@consilium.europa.eu>
Sent: Wednesday, June 2, 2021 11:49 AM
To: **DELETED**
Subject: RE: Ref. mj - RE: Ref. 21/0873-mj/nb

Dear **DELETED**,

Thank you for your message.

Unfortunately, we are not in a position to address this new question as it cannot be answered without disregarding the scope of the interest protected by Article 4 (1)(a) third indent of Regulation (EC) No 1049/2001 (the protection of international relations).

Yours sincerely,

Transparency



General Secretariat of the Council

Directorate-General Communication and Information - COMM

Directorate Information and Outreach

Information Services Unit / Transparency

Rue de la Loi/Wetstraat, 175 - B-1048 Bruxelles/Brussel - Belgique/België

www.consilium.europa.eu | access@consilium.europa.eu

Disclaimer: The views expressed are solely those of the writer and may not be regarded as stating an official position of the Council of the EU

Clause de non-responsabilité: Les avis exprimés n'engagent que leur auteur et ne peuvent être considérés comme une position officielle du Conseil de l'UE

From: **DELETED**
Sent: Tuesday, June 1, 2021 6:56 PM
To: TRANSPARENCY Access to documents (COMM) <Access@consilium.europa.eu>
Subject: Re: Ref. mj - RE: Ref. 21/0873-mj/nb

Is it possible to know under the partial access provisions at least which country this document concerns? Otherwise, I would like to file a confirmatory application.

From: TRANSPARENCY Access to documents (COMM) <Access@consilium.europa.eu>
Sent: Tuesday, June 1, 2021 12:04 PM
To: **DELETED**
Subject: Ref. mj - RE: Ref. 21/0873-mj/nb

Dear **DELETED**,

Thank you for your message.

Unfortunately, we are not in a position to reply to your question. The question cannot be answered without disregarding the scope of the interest protected by Article 4 (1)(a) third indent of Regulation (EC) No 1049/2001 (the protection of international relations).

Yours sincerely,

Transparency



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From: **DELETED**
Sent: Saturday, May 29, 2021 3:34 AM
To: TRANSPARENCY Access to documents (COMM) <Access@consilium.europa.eu>
Subject: Re: Ref. 21/0873-mj/nb

Thanks for the reply.

Is it possible to clarify if the document that the Secretariat denies access to concerns the suspension for this particular treaty or for all or most international treaties?