



Council of the
European Union

077502/EU XXVII. GP
Eingelangt am 22/10/21

Brussels, 22 October 2021
(OR. en)

13153/21

INF 278
API 151

NOTE

From: General Secretariat of the Council
To: Working Party on Information
Subject: Public access to documents
- Confirmatory application No 37/c/01/21

Delegations will find attached:

- the requests for access to documents sent to the General Secretariat of the Council on 1 October 2021 and registered on 4 October 2021 (Annex 1);
- the reply from the General Secretariat of the Council dated 22 October 2021 (Annex 2);
- the confirmatory application dated 22 October 2021 (Annex 3).

[E-mail message sent to access@consilium.europa.eu on 1 October 2021 - 18:02 using the electronic form available in the Register application]

From: DELETED

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

Subject: Consilium - Electronic Request for Access to documents [ENGLISH]

Family name: DELETED

First name: DELETED

E-mail: DELETED

Requested document(s)

ST 12178 2021 INIT

[E-mail message sent to access@consilium.europa.eu on 1 October 2021 - 18:03 using the electronic form available in the Register application]

From: DELETED

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

Subject: Consilium - Electronic Request for Access to documents [ENGLISH]

Family name: DELETED

First name: DELETED

E-mail: DELETED

Requested document(s)

ST 12178 2021 ADD 1 - NOTE



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, 22 October 2021

DELETED

Email: **DELETED**

Ref. 21/1619-lk/vk

Request made on: 01.10.2021

Registered on: 04.10.2021

Dear **DELETED**,

Thank you for your request for access to documents **ST 12178/21 + ADD 1** of the Council of the European Union.¹

I regret to inform you that access to these two documents cannot be given for the reasons set out below.

Document ST 12178/21 contains a draft Council decision authorising the opening of negotiations for an agreement between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part, in respect of Gibraltar. Document ST 12178/21 ADD 1 contains the directives given by the Council for these negotiations.

These negotiations are still in progress. Should its internal views and negotiation strategy be made public while negotiations are still ongoing, the position of the European Union in these negotiations would be seriously weakened.

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).

Disclosure of the two documents would therefore undermine the protection of the public interest as regards international relations. As a consequence, the General Secretariat has to refuse access to these documents.²

Pursuant to Article 7(2) of Regulation (EC) No 1049/2001, you may ask the Council to review this decision within 15 working days of receiving this reply. Should you see the need for such a review, you are invited to indicate the reasons thereof.³

Yours sincerely,

Fernando FLORINDO

² Article 4(1)(a), third indent, of Regulation (EC) No 1049/2001.

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 22 October 2021 - 11:18 using the electronic form available in the Register application]

From: DELETED

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

Subject: Consilium - Electronic Request for Access to documents [ENGLISH]

Family name: DELETED

First name: DELETED

E-mail: DELETED

Requested document(s)

ST 12178/21 + ADD 1

I'd like the Council to review the decision 21/1619-lk/vk. If I remember correctly, the mandates of the Withdrawal Agreement and the Trade and Cooperation Agreement with the UK were made public. The Commission published the mandate about Gibraltar as well for the sake of transparency. I don't think the Council has any justification to hide this mandate. What's different now? Is this a step back in transparency?
