



Council of the
European Union

079781/EU XXVII. GP
Eingelangt am 12/11/21

Brussels, 12 November 2021
(OR. en)

13854/21

INF 289
API 159

NOTE

From:	General Secretariat of the Council
To:	Working Party on Information
Subject:	Public access to documents - Confirmatory application No 40/c/01/21

Delegations will find attached:

- the request for access to documents sent to the General Secretariat of the Council on 27 September 2021 and registered on the same day (Annex 1);
- the reply from the General Secretariat of the Council dated 10 November 2021 (Annex 2);
- the confirmatory application dated 10 November 2021 and registered on 11 November 2021 (Annex 3).

[E-mail message sent to access@consilium.europa.eu on 27 September 2021 - 16:26 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)

WK 10814/21, referenced in WK 10797/21.

WK 10814/21 concerns a letter received from the United States Internal Revenue Service dated 8 September 2021.



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, 10 November 2021

DELETED

Email: **DELETED**

Ref. 21/1590-mw/jl

Request made on: 27.09.2021

Deadline extension: 18.10.2021

Dear **DELETED**,

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

I regret to inform you that access to document **WK 10814/21** cannot be given for the reasons set out below.

Document **WK 10814/21** of 16.09.2021 contains a letter from the US Department of the Treasury addressed to the Slovenian Presidency of the Council of the EU on FATCA.

This document is recent and concern difficult issues that are still debated within the Council. Release would affect the decision-making process, since the sensitive issues concerned continue to be discussed and any disclosure would seriously hamper the efforts to find solutions for them.

The document also concern delicate issue touching on relations with third country, and release of the information contained in it would both severely affect the EU's position on the international level and considerably undermine internal discussions, putting in jeopardy a successful outcome.

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).

As a consequence, the General Secretariat has to refuse access to this document.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, and – in the absence of any evidence of an overriding public interest in release – Article 4(3), first subparagraph, 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 10 November 2021 - 18:36]

Dear Council of the European Union,

Please pass this on to the person who reviews confirmatory applications.

I am filing the following confirmatory application with regards to my access to documents request 'Requesting Document WK 10814/21'.

In your response, you cite inclusion of a letter from the US Treasury as the primary reason for refusal to provide the document.

In the time since the original information request was filed, I have become aware of a copy of a letter circulating on social media that is plausibly the letter from Treasury concerned, i.e. the information that the Council feels cannot be disclosed has already been disclosed and is in the public domain.

DELETED

Release of the document via the Information Request mechanism remains in the public interest, as it either authenticates or refutes the accuracy and completeness of the publicly posted letter.

Furthermore, there has been extensive pressure from both EU bodies (see statements and resolutions from EU Parliament PETI Committee) and members of the public for increased transparency and communication on this issue.

While the document discusses relations with a third country, it concerns extraterritorial actions that undermine numerous rights of EU residents and citizens, myself included.

I kindly request confirmation of the decision to wholly refuse the Information Request rather than to provide partial / redacted copies of the relevant documents.

A full history of my request and all correspondence is available on the Internet at this address:

DELETED

Yours faithfully,

DELETED
