



**Brussels, 19 August 2025
(OR. en)**

12159/25

**INF 134
API 74**

NOTE

From:	General Secretariat of the Council
To:	Delegations
Subject:	Public access to documents - Confirmatory application N° 18/c/04/25

Delegations will find attached:

- the request for access to documents sent to the General Secretariat of the Council on 24 June 2025 and registered on the same day (Annex 1);
- the reply from the General Secretariat of the Council dated 6 August 2025 (Annex 2);
- the confirmatory application dated 18 August 2025 and registered on the same day (Annex 3).

From: **DELETED**

Sent: Tuesday 24 June 2025 09:03

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

Subject: access to documents request - EDPS selection procedure

Dear Council of the European Union,

Under the right of access to documents in the EU treaties, as developed in Regulation 1049/2001, I am requesting all documents concerning the selection procedure for the European Data Protection Supervisor since 1 December 2024. This includes documents WK 4222/25, 7545/25, WK 823/25, WK 15659/24, WK 14770/24 and any other relevant document.

Yours faithfully,

DELETED



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, 6 August 2025

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Email: **DELETED**

Ref. 25/1851

Request made on: 24.06.2025

Dear **DELETED**,

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

You requested “*all documents concerning the selection procedure for the European Data Protection Supervisor since 1 December 2024*”. In your request you also identified documents **WK 4222/25, 7545/25, WK 823/25, WK 15659/24 and WK 14770/24** and requested “*any other relevant document*”.

In addition to the documents which you identified, we identified the following documents as relevant to your request: **WK 2403/25, WK 16095/24, WK 15424/24 R-UE/EU-R**, as well as **two agendas of the informal negotiation meetings between the European Parliament and Council, an email from the Council to the European Parliament informing the EP about the result of the votes in the Council, and the Council’s invitation letters to the shortlisted candidates.**

Please find attached documents **WK 4222/25, 7545/25, WK 823/25, WK 15659/24, WK 14770/24, WK 2403/25 and WK 16095/24** as well as **the agendas of the informal negotiation meetings between the European Parliament and the Council** as per your request.

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).

Please also find attached a partially accessible version of the **Council's invitation letters to the shortlisted candidates.**² However, I regret to inform you that full access cannot be given for the reasons set out below.

Those letters contain personal data (addresses) of the shortlisted candidates and other personal data. The personal data contained in these invitation letters is necessary for the organisation of the work of the Council in relation to the EDPS selection procedure.

EU data protection rules³ provide that when the personal data collected is to be used for a different purpose, including disclosure to the public, a balance needs to be established between the public interest in having access to such data and the legitimate right of individuals to protect their personal data.⁴

After carefully considering all the principles related to this request, on balance the General Secretariat has concluded that disclosure of the personal data contained in the documents would undermine the protection of privacy and the integrity of the concerned individuals. Therefore, the General Secretariat has to refuse access to this data.⁵

Full disclosure of this document would therefore undermine the protection of privacy and integrity of the persons concerned. As a consequence, the General Secretariat has to refuse full access to these documents.⁶

Please also find attached a partially accessible version of the **email from the Council to the European Parliament informing the EP about the result of the votes in the Council.**⁷ However, I regret to inform you that full access cannot be given for the reasons set out below.

The purpose of this email is to provide details to the European Parliament about votes cast in COREPER with regard of the two candidates that emerged as first in the respective rankings of the Council and the Parliament, for the position of European Data Protection Supervisor.

² Article 4(6) of Regulation (EC) No 1049/2001.

³ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295 21.11.2018, p. 39).

⁴ Article 9 of Regulation (EU) No 2018/1725.

⁵ Article 4(1)(b) of Regulation (EC) No 1049/2001.

⁶ Article 4(1)(b) of Regulation (EC) No 1049/2001.

⁷ Article 4(6) of Regulation (EC) No 1049/2001.

This email also contains personal data of the European Parliament's and the Council's officials' dealing with the EDPS selection procedure and this data needs to be protected in accordance with Article 4(1)(b) of Regulation (EC) No 1049/2001 and European legislation regarding the protection of personal data⁸.

Furthermore, the EDPS selection is a politically sensitive procedure which is still ongoing and where no agreement between the Council and the European Parliament has been reached so far. Revealing to the public the specific results of votes might affect the selection process within the Council, which would in turn seriously undermine the decision-making process within the Council and diminish the chances of successfully completing this selection procedure in the nearest future.

Having examined the context in which this email was drafted and the current state of play in this selection procedure, on balance the General Secretariat of the Council could not identify any evidence suggesting an overriding public interest in its full disclosure.

Full disclosure of this email would therefore also undermine the protection of the privacy and integrity of the persons concerned. As a consequence, the General Secretariat has to refuse access to this document.⁹

I regret to inform you that access to document **WK 15424/24 R-UE/EU-R** cannot be given for the reasons set out below.

WK 15424/24 is a classified document, bearing the classification "RESTREINT UE/EU RESTRICTED". This means that the unauthorised disclosure of their content could be disadvantageous to the interests of the European Union or of one or more of its Member States.¹⁰

Its content originates from the Commission and the Commission was duly consulted on the disclosure thereof pursuant to Art. 4(4) of Regulation (EC) No 1049/2001.

The document contains personal data (CV's and motivation letters) of the shortlisted candidates to the post of the EDPS. The personal data contained in this document is necessary for the organisation of the work of the Council in relation to the EDPS selection procedure.

⁸ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data (OJ L 295, 21.11.2018, p. 39).

⁹ Article 4(1)(b) and 4(3), first subparagraph, of Regulation (EC) No 1049/2001.

¹⁰ Council Decision of 23 September 2013 on the security rules for protecting EU classified information (2013/488/EU), OJ L 274, 15.10.2013, p. 1.

EU data protection rules¹¹ provide that when the personal data collected is to be used for a different purpose, including disclosure to the public, a balance needs to be established between the public interest in having access to such data and the legitimate right of individuals to protect their personal data.¹²

After carefully considering all the principles related to this request, on balance the General Secretariat has concluded that disclosure of the personal data contained in the document would undermine the protection of privacy and the integrity of the concerned individuals. Therefore, the General Secretariat has to refuse access to this data.¹³

Having examined the context in which this document was drafted and the current state of play in this selection procedure, on balance the General Secretariat of the Council could not identify any evidence suggesting an overriding public interest in its disclosure.

Disclosure of this document would therefore undermine the protection of the public interest as regards the privacy and integrity of the persons concerned. As a consequence, the General Secretariat has to refuse access to this document.¹⁴

We have also looked into the possibility of releasing parts of this document.¹⁵ However, as the information contained therein forms an inseparable whole, the General Secretariat is unable to give partial access.

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.

Yours sincerely,

Fernando FLORINDO

¹¹ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295 21.11.2018, p. 39).

¹² Article 9 of Regulation (EU) No 2018/1725.

¹³ Article 4(1)(b) of Regulation (EC) No 1049/2001.

¹⁴ Article 4(1)(b) of Regulation (EC) No 1049/2001.

¹⁵ Article 4(6) of Regulation (EC) No 1049/2001.

From: DELETED

Sent: Monday 18 August 2025 11:12

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

Subject: Internal review of access to documents request - EDPS selection procedure

Dear Mr. Florindo,

pursuant to Article 7(2) of Regulation (EC) No 1049/2001, I hereby submit a confirmatory application regarding the General Secretariat's decision to refuse disclosure of certain parts of document WK 15424/24.

The refusal to disclose the CVs and motivation letters of the shortlisted candidates for the post of European Data Protection Supervisor (EDPS) is not justified. These documents must be disclosed in full.

1. Overriding public interest in transparency of appointments to the post of EDPS

The appointment of the European Data Protection Supervisor is a matter of significant institutional importance and a core element of democratic accountability in the EU. The EDPS plays a central role in safeguarding one of the most fundamental EU rights – the right to data protection – and exercises considerable independence. For this reason, the public has a clear interest in understanding not only the professional qualifications of the shortlisted candidates but also the motivations they have expressed for the post.

2. Motivation letters are not purely personal documents

The motivation letters submitted by applicants in the framework of this institutional appointment cannot be equated with private correspondence or personal data of a strictly private character. These letters are part of a public appointment procedure and are intended to demonstrate the candidates' understanding of the role, their approach to the mandate and their vision for the institution. Therefore, their disclosure directly contributes to democratic oversight and allows the public to assess the suitability of the nominees.

3. The public interest outweighs any potential harm

Even if the motivation letters and CVs contain some personal data, the Court of Justice has clearly established that personal data relating to the performance of public functions by a candidate for public office warrants a lower level of protection (Case C-28/08 P, Bavarian Lager; Case C-615/13 P, ClientEarth). The appointment of the EDPS is an open and competitive procedure; the candidates voluntarily put themselves forward for a public function and thereby accepted a certain degree of transparency.

In addition, less intrusive measures (partial redaction of signatures, private contact details or identity numbers) could be applied if strictly necessary. However, the motivation expressed by the candidates and their relevant professional background is at the very heart of the public interest and must therefore be made available in full.

4. Precedent supports disclosure

In several previous appointment procedures, the institutions have released significant parts of CVs and motivation statements, recognising that the public interest in transparency clearly outweighs any invoked exception (see, inter alia, confirmatory decision 11/2020 of the Parliament regarding the appointment of the Ombudsman).

Conclusion

For the above reasons, the refusal to disclose the CVs and motivation letters in document WK 15424/24 cannot be upheld under Articles 4(1)(b) and 4(2) of Regulation 1049/2001. There is a manifest and overriding public interest in providing access to these documents so that citizens may fully understand the motivations and qualifications of the candidates considered for this important public office.

I therefore respectfully request full disclosure of the CVs and motivation letters contained in document WK 15424/24.

Kind regards,

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