



Brussels, 7 November 2025
(OR. en)

15067/25

API 121
INF 208

NOTE

From: General Secretariat of the Council
To: Delegations
Subject: Public access to documents
- Confirmatory application No 27/c/02/25

Delegations will find attached:

- the request for access to documents sent to the General Secretariat of the Council on 18 September 2025 and registered on the same day (Annex 1);
- the reply from the General Secretariat of the Council dated 30 October 2025 (Annex 2);
- the confirmatory application dated 6 November 2025 and registered on the same day (Annex 3).

From: document-request@cis.consilium.europa.eu <document-request@cis.consilium.europa.eu>
Sent: Thursday, September 18, 2025 9:54 AM
To: TRANSPARENCY Access to documents (COMM) <Access@consilium.europa.eu>
Subject: Consilium - Electronic Request for Access to documents [ENGLISH]

This e-mail has been sent to access@consilium.europa.eu using the electronic form available in the Register application.
This electronic form has been submitted in ENGLISH.

Title

DELETED

First name

DELETED

Family name

DELETED

E-mail

DELETED

Occupation

DELETED

I submit this request on my own behalf.

Name of the organisation

Full postal address

Telephone

Requested document(s)

I would like to access the presentation on TEDOR that was made by the European Commission during the September 17 WP on own resources please. Thank you

1st option

EN

2nd option

This is an automatic reply from the General Secretariat of the Council of the European Union concerning your request for access to Council documents.
This notification was sent from an unattended mailbox. Please do not reply.



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, 30 October 2025

DELETED

E-mail: **DELETED**

Ref. 25/2612

Request made on: 18.09.2025

Deadline extension: 09.10.2025

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 11587/2025** cannot be given for the reasons set out below.

Document **WK 11587/2025**, dated 15 September 2025, contains a paper drafted by the Commission services on the estimated revenue projections for the Tobacco Excise Duty own resource.

As the author of this document, the Commission services have been consulted. According to the Commission services, the document in question has been shared with the European Parliament and the Council in the context of the ongoing interinstitutional decision-making process in relation to the Union's future multiannual financial framework 2028-2034. This document is particularly sensitive as it concerns the future

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).

financial framework of the European Union. Disclosure of this technical document, which may contain preliminary views or policy options not formally endorsed by the Institutions, could lead to external pressure from interest groups or stakeholders, including those from third countries. The content of this document risks being misinterpreted or taken out of context, a particular risk given the interconnected nature of the MFF legal instruments. This could in turn undermine the trust between Institutions in the context of ongoing negotiations and thereby hamper the efficient conduct of those negotiations.

The exception laid down in Article 4(3) first subparagraph of Regulation (EC) No 1049/2001 applies as the public interest in accessing this document does not outweigh the potential harm that disclosure could cause to the decision-making process. The Institutions have mechanisms to ensure transparency and accountability, including release of documents post-decision, allowing for public scrutiny at a stage where such access would not impede the effective functioning of the Union's decision-making processes.

Given the potential adverse effects on the ongoing decision-making process, and in the absence of an overriding public interest, access to the requested document should be denied under Article 4(3) first subparagraph of Regulation (EC) No 1049/2001.

The General Secretariat of the Council finds the above-mentioned reasoning of the Commission services *prima facie* well founded.

We have also examined the possibility of releasing parts of document WK 11587/2025.² 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

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

From: **DELETED**

Sent: Thursday, November 6, 2025 2:30 PM

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

Subject: RE: Confirmatory Application - Ref. 25/2612 - Ares(2025)9317664

Dear Sir or Madam,

Pursuant to Article 7(2) of Regulation (EC) No 1049/2001, I hereby submit a confirmatory application regarding the Council's decision of 30 October 2025 (Ref. 25/2612), which denied access to document WK 11587/2025.

1. Nature of the Document and Its Public Relevance

The document in question, as described, is a paper from the Commission services concerning revenue projections for the Tobacco Excise Duty Own Resource (TEDOR). This proposal is fiscally significant, politically sensitive, and of direct interest to the public, as it relates to:

The use of excise duties on tobacco products as a means of contributing to the EU's general budget

The health impact of such taxation, in line with EU public health objectives

Legislative discussions on the 2028–2034 Multiannual Financial Framework (MFF)

These topics are of legitimate and growing public concern, particularly when decisions affect consumer prices, national budgets, and behavioral tax policies designed to deter tobacco use.

The TEDOR proposal is distinct from the CORE instrument, which concerns a broader lump-sum contribution by large companies. TEDOR, in contrast, builds on already-existing harmonized excise duties, and its revenue is directly linked to public health policy. The nature of its design, implementation, and revenue estimations are thus of high public value and should be made available for transparent scrutiny.

2. Rebuttal to Article 4(3) Exemption: No Specific or Serious Harm Demonstrated

The Council invokes Article 4(3), first subparagraph, citing the risk of undermining the decision-making process and generating pressure or misinterpretation. However:

The Council provides no concrete evidence that disclosure would seriously undermine negotiations.

The TEDOR file does not contain classified or diplomatic information, nor does it reveal sensitive political negotiation strategies.

The document has already been shared with both Parliament and Council, which undermines the claim that its public disclosure would interfere with interinstitutional trust.

In *Access Info Europe v Council* (T-233/09), the General Court held that transparency in the legislative process—particularly in areas where public funds are concerned—must be the rule, not the exception.

3. Overriding Public Interest Under Article 4(3)

The Council's letter concludes that the public interest in transparency does not outweigh the perceived harm. I respectfully submit that this conclusion is legally flawed.

The TEDOR mechanism, if implemented, would earmark a share of national tobacco excise revenues for the EU budget—thereby redirecting national public funds. The decision has:

Direct financial implications for member states

Public health ramifications, as tobacco taxation is known to affect smoking rates

Equity concerns, since the tax burden may be passed on to consumers

Transparency regarding revenue expectations and assumptions is critical for informed public debate—especially where both health and fiscal policy intersect. The Commission itself highlighted in the Europe's Beating Cancer Plan that health taxes must be accompanied by public understanding.

4. Failure to Consider Partial Access – Article 4(6)

The Council asserts that the content forms “an inseparable whole,” yet offers no justification. This contravenes Article 4(6), which requires institutions to consider partial access where possible.

Even if certain sections reflect draft policy options, other sections—such as factual estimates, methodologies, and fiscal assumptions—could clearly be disclosed. These are quantitative, not

political in nature. Redacting sensitive portions while releasing neutral content would be both feasible and consistent with the Regulation.

5. Legal and Policy Precedent Supports Disclosure

Documents similar in nature to WK 11587/2025 have previously been disclosed:

The 2021 TEDOR feasibility study was made public

Similar own resources impact assessments were released during the 2020–2022 budget cycle

Additionally, in *De Capitani v Parliament* (T-540/15), the Court held that non-disclosure must be exceptional and that legislative processes demand a high level of openness.

6. Conclusion and Request

In light of the above:

I respectfully request the Council to reconsider its refusal and grant full access to WK 11587/2025;

Alternatively, I request that partial access be granted, under Article 4(6);

I request the Council to conduct a new, specific and evidence-based harm assessment, as required by Regulation 1049/2001;

I urge the Council to consider the overriding public interest in transparency regarding a revenue mechanism directly tied to public health policy and EU financing.

I look forward to your response and remain available for any clarification.

Sincerely,

DELETED