



**Brussels, 3 December 2024
(OR. en)**

16488/24

**INF 288
API 136**

NOTE

From:	General Secretariat of the Council
To:	Delegations
Subject:	Public access to documents - Confirmatory application No 30/c/01/24

Delegations will find attached:

- the request for access to documents sent to the General Secretariat of the Council on 8 October 2024 and registered on the same day (Annex 1);
- the reply from the General Secretariat of the Council dated 20 November 2024 (Annex 2);
- the confirmatory application dated 2 December 2024 and registered on the same day (Annex 3).

-----Original Message-----

From: **DELETED**

Sent: Tuesday, October 8, 2024 9:51 AM

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

Subject: access to documents request - Notes and exchanges on the EU-Azerbaijan MoU

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 documents which contain the following information:

- All the working documents, correspondence, notes exchanges and documents reflecting the different States' positions regarding the signature of the MoU between the EU & Azerbaijan on a Strategic Partnership in the Field of Energy in July 2022.

- All the preparatory documents, notes, contents shared, and conclusion texts from meetings of the Working Party on Energy related to the MoU between the EU & Azerbaijan on a Strategic Partnership in the Field of Energy signed in July 2022.

I would prefer the information to be provided on a rolling basis and in a digital format.

Yours faithfully,

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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, 20 November 2024

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Email: **DELETED**

Ref. 24/2593

Request made on: 08.10.2024

Deadline extension: 29.10.2024

Dear **DELETED**,

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

As a reminder, your request focuses on all preparatory documents related to the MoU between the EU & Azerbaijan on a Strategic Partnership in the Field of Energy signed in July 2022.²

Following our internal consultations, we identified the following documents corresponding to your request:

- [ST 12078/22](#), [ST 11524/22](#), [ST 11442/22](#), [ST 11096/22](#), [ST 10995/22](#), [ST 10898/1/22](#) [REV 1](#) [ADD 1](#), [ST 10707/22](#) and (as background) [ST 11567/1/21](#) [REV 1](#), [ST 11565/21](#) + [ADD 1](#) and [ST 14323/06](#), all fully downloadable from the public register of Council documents;

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).

² https://ec.europa.eu/commission/presscorner/detail/en/ip_22_4550
<https://www.consilium.europa.eu/en/meetings/international-ministerial-meetings/2022/07/19/>
<https://www.consilium.europa.eu/en/policies/azerbaijan/>

- [ST 10491/22](#), [CM 3982/22](#) and [CM 3981/22 + REV 1](#), in which the parts containing personal data have been redacted in accordance with Article 4(1)(b) of Regulation (EC) No 1049/2001 and European legislation regarding the protection of personal data³.

Also these four documents can be downloadable from the public register (you can use all the hyperlinks in this letter);

- [ST 10898/22 + ST 10898/1/22 REV 1](#), note to the Permanent Representatives Committee and the Council focusing on the EU's position for the 18th meeting of the EU-Azerbaijan Cooperation Council held in Brussels on 19 July 2022.

Also these two documents can be downloadable from the public register or clicking the hyperlinks in this letter.

You may have access to their cover page of these two documents and to the agenda of the abovementioned meeting in Annex I. Regretfully, Annexes II and III, containing the detailed EU's position and orientations for the discussions being held in bilateral with the Azerbaijan authorities, cannot be disclosed as they contain internal assessment and reflection elements that, if released to the public, would weaken the EU's position in the future bilateral dialogue and cause prejudice to EU's ongoing relations with the third country concerned. Consequently, full access to documents **ST 10898/22** and **ST 10898/1/22 REV 1** cannot be granted.⁴

- **ST 11100/22** and **WK 9426/2022 + REV 1 + REV 2**. The former document **ST 11100/22** is a note containing the Memorandum of Understanding on a strategic partnership in the field of energy between the European Union, represented by the European Commission, and the Republic of Azerbaijan.⁵ Documents **WK 9426/2022 + REV 1 + REV 2** contain draft versions of the above Memorandum.

In the light of our consultations with the European Commission, regretfully the release of these documents to the public cannot be authorised. The MOU concerned is a non-binding instrument setting out areas of cooperation in the field of energy between the EU and the Republic of Azerbaijan. Its disclosure, as well as the public release of its preparatory draft texts, would undermine the necessary mutual trust in the conduct of EU's official bilateral relations and therefore would have a negative impact on the EU's international relations, also on possible future negotiations with other third countries.

Consequently, access to these documents must be refused.⁶

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 (OJ L 295, 21.11.2018, p. 39).

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

⁵ <https://www.consilium.europa.eu/en/policies/eastern-partnership/azerbaijan/>
https://ec.europa.eu/commission/presscorner/detail/en/ip_22_4550

⁶ Article 4(1)(a), third indent of Regulation (EC) No 1049/2001.

We have also looked into the possibility of releasing parts of **ST 11100/22** and **WK 9426/2022 + REV 1 + REV 2**.⁷ However, as the information contained therein forms an inseparable whole, the General Secretariat is unable to give partial access.

Concerning individual comments from Member States' delegations during the preparatory work, you may wish to address your request to the [Transparency-Access to documents services](#) of the European External Action Service.

Finally, we wish to draw your attention to the fact that all the preparatory work for the abovementioned MoU was done by the RELEX Working Party COEST. According to our internal consultations, the Council Working Party on Energy only heard an initial oral presentation from the Commission at its meeting on 5 July 2022 and there is no outcome of proceedings drawn up on that meeting. Therefore there are no documents from the Energy WP corresponding to your request.

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

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

-----Original Message-----

From: **DELETED**

Sent: Monday, December 2, 2024 10:21 AM

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

Subject: Internal review of access to documents request - Notes and exchanges on the EU-Azerbaijan MoU

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 'Notes and exchanges on the EU-Azerbaijan MoU'.

In the response to my request it was stated that disclosing the Memorandum of Understanding signed by the EU and Azerbaijan "would undermine the necessary mutual trust in the conduct of EU's official bilateral relations and therefore would have a negative impact on the EU's international relations, also on possible future negotiations with other third countries."

Despite being a non-binding document, the MoU established a framework for mutual cooperation in the years to come. The media widely reported on it, helping establish that this MoU and EU-Azerbaijan relations are of high public interest.

However, the rejection of disclosing this document to the public suggests that the media themselves could not report fully on the topic, which may have led to incomplete and biased reporting about such an important matter. More concerning, this rejection means that the EU is not being transparent in their approach to a controversial country. Hence, disclosing the MoU would facilitate a healthy and necessary public debate about how the EU must balance its needs and values.

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

https://www.asktheeu.org/en/request/notes_and_exchanges_on_the_eu_az

Yours faithfully,

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