



Brussels, 21 January 2026
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NOTE

From: General Secretariat of the Council
To: Delegations
Subject: Public access to documents - Confirmatory application No 03/c/01/26

Delegations will find attached:

- the request for access to documents sent to the General Secretariat of the Council on 1 December 2025 and registered on the same day (Annex 1);
- the reply from the General Secretariat of the Council dated 6 January 2026 (Annex 2);
- the confirmatory application dated 13 January 2026 and registered on 15 January 2026 (Annex 3).

IN 12163 2025
02-12-2025



By Registered Mail

Working Party on Energy /
General Secretariat of the Council of the European Union
DG COMM - Transparency
rue de la Loi/Wetstraat 175
B-1048 Bruxelles/Brussel

27 November 2025

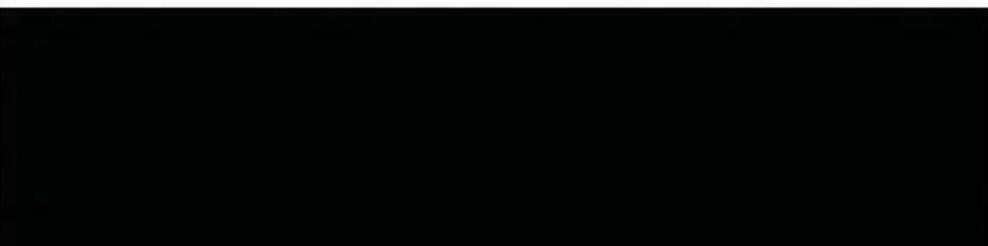
Request to access documents concerning Council Regulation (EU) 2022/1854

To whom it may concern,

Pursuant to Article 15 of the Treaty on the Functioning of the European Union, Article 42 of the Charter of Fundamental Rights of the European Union, and Regulation (EC) 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents; we hereby request access to information relating to Council Regulation (EU) 2022/1854 of 6 October 2022 on an emergency intervention to address high energy prices.

Accordingly, we ask you to provide access to the following documents:

1. Copies of the documents contained in the Interinstitutional File: 2022/0289 (NLE).
2. Copies of the documents relating to the meetings held by the Council's Working Party on Energy on the Proposal for a Council regulation to address high energy prices, notably the following meetings:
 - Meeting of 15 September 2022 where the Commission presented the first official proposal of Council Regulation to the Working Party on Energy.
 - Meeting of 26 September 2022 where the second revision of the proposal for a Council Regulation was discussed by the Working Party on Energy.



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We remain at your disposal for any questions regarding our request.

We look forward to receiving your response within the statutory time limit set out in Article 7 of Regulation (EC) 1049/2001 regarding public access to the Council's documents.

Yours sincerely,

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1952986566.1



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 January 2026

DELETED

DELETED

Email: **DELETED**

Ref. 25/3706

Request made on: 01.12.2025

Deadline extension: 22.12.2025

Dear **DELETED**,

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

Your request for access to documents concerning Council Regulation (EU) 2022/1854 of 6 October 2022 on an emergency intervention to address high energy prices addressed to the Working Party on Energy was forwarded to us.

In this request, you have asked for the following documents:

- “1. Copies of the documents contained in the Interinstitutional File: 2022/0289 (NLE)
2. Copies of the documents relating to the meetings held by the Council’s Working Party on Energy on the Proposal for a Council Regulation to address high energy prices, notably the following meetings:

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).

- Meeting of 15 September 2022 where the Commission presented the first official proposal of Council Regulation to the Working Party on Energy.
- Meeting of 26 September 2022 where the second revision of the proposal for a Council Regulation was discussed by the Working Party on Energy”.

Regarding the first point of this request, as you have already requested access to the same documents in the request you addressed to DG COMM – Transparency (registered under the reference 25/3687), please see our reply to this request which was sent to you earlier today.

The following documents were identified as corresponding to point 2 of your request:

- CM 4312/22
- ST 12249/22
- WK 12077/2022 INIT
- CM 4475/22
- ST 12422/22

Documents CM 4312/22, ST 12249/22, CM 4475/22 and ST 12422/22² are public and directly available in the [register of Council’s documents](#). They are also attached for your convenience.

Document WK 12077/2022 INIT is a Working Document of 15 September 2022 which contains Commission’s presentations on the EU solidarity contribution and measures concerning the electricity market which were presented during the meeting of the Working Party on Energy on 15 September 2022.

The Commission, author of these presentations, was consulted on their possible disclosure and is of the view that access should be refused to them on the following grounds.

Regulation (EU) 2022/1854 is currently subject of ongoing litigation before the EU courts and arbitration tribunals involving the Council and the Commission. Consequently, access to this document should be refused to protect the court proceedings and legal advice, pursuant to Article 4(2) second indent of Regulation (EC) n° 1049/2001.

There are at the moment several requests for preliminary rulings pending before the Court of Justice of the European Union, submitted by national courts of Member States in the context of litigation regarding the Regulation concerned. Furthermore, several actions for annulment are also pending against the said Regulation before the General Court. In addition, there are also three ongoing arbitration cases in the context of the Energy Charter Treaty.

² Documents ST 12249/22 and ST 12422/22 are also covered by point 1 of your request.

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

For the abovementioned reasons, the General Secretariat of the Council has concluded that access to the document should be refused at this stage.

We have also looked into the possibility of releasing parts of the document.³ However, as the exception to the right of access applies to its entire content, the General Secretariat is unable to give partial access at this stage.

For the sake of completeness, even if your present request only concerns meetings of the Working Party on Energy, we would like to inform you that the proposal for a Council Regulation on an emergency intervention to address high energy prices was on the agenda of the meeting of the Permanent Representatives Committee of 21 and 23 September 2022 (cf. document [12544/2/22 REV 2](#)). The summary record of this meeting is set out in document [13206/22](#) (cf. item 33).

It was also on the agenda of the meeting of the Permanent Representatives Committee of 28 September 2022 (cf. document [12725/22](#)). The summary record of this meeting is set out in document [13520/22](#) (cf. item 3.1).

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

Enclosures: 4

³ Article 4(6) of Regulation (EC) No 1049/2001.

E-MAIL

Received on
15. 01. 2026IM 611 2026
20-01-2026

13 January 2026

By Registered Mail

Mr. Fernando FLORINDO GILJON (Head Unit)
 General Secretariat, Information Services (COMM.2.C)
 Council of the European Union
 Justus Lipsius, Rue de la Loi 175
 1048 Brussels

Confirmatory Application – Access to Document WK 12077/2022 INIT

Dear Mr. Florindo,

I write further to the General Secretariat's correspondence of 6 January 2026 concerning our request for access to documents relating to Council Regulation (EU) 2022/1854 of 6 October 2022 on an emergency intervention to address high energy prices, addressed to the Working Party on Energy and received on 1 December 2025 (Ref. 25/3706).

We note that five documents were identified as corresponding to the request.¹ Four were enclosed with the correspondence, while one was withheld pursuant to Article 4(2) of Regulation (EC) No 1049/2001.

Pursuant to Article 7(2) of Regulation (EC) No 1049/2001, we hereby submit a confirmatory application requesting the Council to review its decision to refuse access to the withheld document.

We understand from the letter of 6 January 2026 that the withheld document, WK 12077/2022 INIT, is a working document dated 15 September 2022 containing Commission presentations on the EU contribution and electricity market measures presented to the Working Party on Energy on that date. We further understand that the Commission, as author, opposed disclosure, and that the General Secretariat relied on the second indent of Article 4(2) of Regulation (EC) 1049/2001, by reference to ongoing preliminary references, actions for annulment, and Energy Charter Treaty arbitrations

¹ Documents CM 4312/22, ST 12249/22, WK 12077/2022 INIT, CM 4475/22, and ST 12422/22 were identified as corresponding to the second point of our request.



concerning Regulation (EU) 2022/1854. Finally, we understand that no overriding public interest was identified and that partial access was considered impossible on the ground that the exception applies to the document in its entirety.

In light of the above mentioned limited reasons explaining the withholding of Document WK 12077/2022 INIT and pursuant to Article 7(2) of Regulation (EC) No. 1049/2001, we hereby make a confirmatory application requesting the Council to reconsider its position.

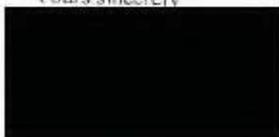
We note that Article 1(a) of Regulation (EC) No. 1049/2001 provides that the purpose of the Regulation is to lay down the principles, conditions, and limits governing the right of access to documents of the Council and the Commission "in such a way as to ensure the widest possible access to documents."² In light of this overarching objective, the reasons advanced do not adequately justify the refusal of our request.

We note that the reliance on ongoing judicial or arbitral proceedings concerning Regulation (EU) 2022/1854 is insufficient on its own to demonstrate that disclosure of WK 12077/2022 INIT "would undermine the protection of court proceedings and legal advice" within the meaning of Article 4(2). The mere existence of litigation does not, without more, establish a concrete and reasonably foreseeable risk of specific harm arising from disclosure of the requested document. The letter dated 6 January 2026 does not articulate how disclosure of these specific Commission presentations, created on 15 September 2022 for a Working Party discussion, would adversely affect any later identified proceedings, nor does it explain the nature of any privileged legal advice contained therein whose confidentiality would be undermined by disclosure.

For the reasons above, we respectfully ask the Council to grant full access to Document WK 12077/2022 INIT. In the alternative, we request partial access under Article 4(6) to all material the disclosure of which would not concretely undermine the protection of court proceedings or legal advice, accompanied by a more detailed statement of reasons identifying any passages withheld and the specific harm anticipated from their disclosure.

We look forward to your response and remain at your disposal should you require any further information in connection with this request.

Yours sincerely



² Regulation (EC) 1049/2001, Article 1(a): "The purpose of this Regulation is to define the principles, conditions and limits on grounds of public or private interest governing the right of access to European Parliament, Council and Commission (hereinafter referred to as 'the institutions') documents provided for in Article 235 of the EC Treaty in such a way as to ensure the widest possible access to documents".