056027/EU XXVIII. GP
Eingelangt am 29/01/26

Council of the
European Union

Brussels, 29 January 2026
(OR. en)

5816/26

API 19
INF 24

NOTE

From:	General Secretariat of the Council
To:	Delegations
Subject:	Public access to documents - Confirmatory application Nº 04/c/01/26

Delegations will find attached:

- the request for access to documents sent to the General Secretariat of the Council on 5 January 2026 and registered on 6 January 2026 (Annex 1);

- the reply from the General Secretariat of the Council dated 27 January 2026 (Annex 2);

- the confirmatory application dated 28 January 2026 and registered on the same day (Annex 3).

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ANNEX 1

[E-mail message sent to access@consilium.europa.eu **on Monday 5 January 2026, 23:19]**

From: **DELETED**
Sent: Monday, 5 January 2026 11:19 PM
To: TRANSPARENCY Access to documents (COMM) <Access@consilium.europa.eu>
Subject: access to documents request - Retail investment strategy trilogue outcome

Dear Madam, Sir,

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:

the provisional agreement resulting from interinstitutional negotiations about the retail investment strategy. This agreement was announced by the Council of the EU on 18 December 2025 at 3:20.

Only digital copies are required, please consider the environment by not sending me any physical mail.

I am of course available to clarify my request further if needed.

Sincerely,

DELETED

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ANNEX 2

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, 27 January 2026

DELETED
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Email: **DELETED**

Ref. 26/0029

Request made on: 05.01.2026
Registered on: 06.01.2026

Dear **DELETED**,

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

Please note that while there has indeed been a political agreement on principle on 18 December 2025, there is no agreed text, as technical work continues (and is expected to continue until some time in February).

Therefore, there are currently no documents covered by your request.

Yours sincerely,

Fernando FLORINDO

[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).

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ANNEX 3

[E-mail message sent to access@consilium.europa.eu **on Wednesday, 28 January 2026, 13:24]**

From: **DELETED**
Sent: 28 January 2026 1:24 PM
To: TRANSPARENCY Access to documents (COMM) <Access@consilium.europa.eu>
Subject: Internal review of access to documents request - Retail investment strategy trilogue outcome

Dear Madam, Sir,

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

On 27 January 2026, the Council denied access to the provisional agreement resulting from interinstitutional negotiations about the retail investment strategy.

I am filing a confirmatory application against that decision (Ref. 26/0029).

The Council claimed there "are currently no documents covered by your request" and that "there is no agreed text". I am challenging that claim.

It is important to stress that I had not asked for a final agreed text, I had asked for the provisional agreement. This provisional agreement is not some verbal agreement between the co-legislators, it is a written document.

The Council must hold this document. It implicitly confirmed it existence in its press release, by speaking about "the updated legislation", "the text" and "updated legal texts" in which the new rules are laid down.

I don't know how the Council can claim "there is no agreed text", when the Council simultaneously publicly acknowledges the existence of an agreement and literally refers to that agreement's "text". It said in the press release: "Technical work will now continue to finalise the legal texts early in 2026."

Thereby, it acknowledged that "legal texts" existed that still needed to be finalised. But otherwise for my request, the fact that "technical work continues" and that legal texts needed to be finalised, is irrelevant.

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In the case of De Capitani v Parliament (T-540/15), the Court clearly said that the preliminary nature of legal texts in documents is irrelevant. In a system based on the principle of democratic legitimacy, co-legislators must be held accountable for their actions to the public; citizens must be in a position to follow in detail the decision-making process within the institutions taking part in the legislative procedures and to have access to all relevant information; and that public opinion is perfectly capable of understanding the preliminary nature of certain information.

The Council's decision to deny access is therefore a blatant disregard of EU jurisprudence and a slap in the face of democrats. I expect it to be overturned and to receive the requested document within the statutory time limit.

Sincerely

DELETED

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