

Brussels, 12 February 2026
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NOTE

From: General Secretariat of the Council
To: Delegations
Subject: Public access to documents - Confirmatory application No 06/c/01/26
– information for delegations

Delegations will find attached:

- the request for access to documents sent to the General Secretariat of the Council on 8 January 2026 and registered on 9 January 2026 (Annex 1);
- the reply from the General Secretariat of the Council of 28 January 2026 (Annex 2);
- the confirmatory application dated 10 February 2026, received and registered on 11 February 2026 (Annex 3).

From: document-request@cis.consilium.europa.eu <document-request@cis.consilium.europa.eu>
Sent: Thursday, January 8, 2026 5:07 PM
To: TRANSPARENCY Access to documents (COMM) <Access@consilium.europa.eu>
Subject: Consilium - Electronic Request for Access to documents [FRENCH]

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 FRENCH.

Title

DELETED

First name

DELETED

Surname

DELETED

Email address

DELETED

Occupation

Media

I am submitting this request as a representative of an organisation.

Organisation name

Radio Télévision Suisse (RTS)

Full postal address

DELETED

Telephone number

DELETED

Requested document(s)

Any documents, reports, minutes, bank statements, descriptions, exchanges of written and electronic correspondence, images, photographs or videos relating to the EU's decision-making concerning the Swiss citizen Jacques Baud, who is subject to decision 2025/2568 (OJ L 202502568) of 15 December 2025 imposing financial restrictive measures, and is referred to therein as follows: 'Jacques Baud, a former Swiss army colonel and strategic analyst, is a regular guest on pro-Russian television and radio programmes. He acts as a mouthpiece for pro-Russian propaganda and makes conspiracy theories, for example accusing Ukraine of orchestrating its own invasion in order to join NATO.'

First choice

FR

Second choice

EN

This is an automatic reply from the General Secretariat of the Council of the European Union concerning your request for access to Council documents.

Please do not reply to this message as it was sent from an unmonitored mailbox.



Council of the European Union

General Secretariat

Directorate-General for Communication and Information - COMM

Information and Outreach Directorate

Information Services Unit / Transparency

Head of Unit

Brussels, 28 January 2026

Radio Télévision Suisse (RTS)

DELETED

Email: **DELETED**

Ref. 26/0061

Request made on: 8 January 2026

Registered on: 9 January 2026

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Thank you for your request for access to documents of the Council of the European Union¹.

We have identified documents 15722/25, 15726/25, 16244/25 and 16245/25 as well as two versions of an 'evidence pack'.

Please find attached documents **15722/25** and **15726/25**.

I regret to inform you that access to documents 16244/25 and 16245/25 and to the versions of the evidence pack cannot be given for the reasons set out below.

¹ The General Secretariat of the Council has examined your request on the basis of the applicable rules, specifically 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).

Documents [16244/25](#) and [16245/25](#) are proposals from the High Representative of 3 December 2025 for a Council decision amending Decision (CFSP) [2024/2643](#) and for a Council implementing regulation implementing Regulation (EU) [2024/2642](#) concerning restrictive measures in view of Russia's destabilising activities.

These documents contain earlier draft versions of the relevant decision and regulation, which differ from the adopted versions. Their disclosure would enable conclusions to be drawn regarding internal EU discussions concerning the restrictive measures in question. This would weaken the EU's position on the international stage and its ability to implement the adopted measures effectively and to adopt others in the future. Furthermore, these documents also contain sensitive personal data relating to natural persons.

These considerations, and in particular the last one, also apply to the versions of the **evidence pack**, the presentation and structure of which also enable conclusions to be drawn as to the EU bodies' working methods in this area.

The data protection rules at EU level² 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 that data and the legitimate right of data subjects to the protection of their personal data. 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 identified individuals.

Disclosure of these documents would therefore undermine the protection of the public interest as regards public security and international relations, and the protection of personal data, as well as – in the absence of any indication of an overriding public interest in disclosure – the protection of the Council's decision-making process. As a consequence, the General Secretariat has to refuse access to these documents³.

We have also looked into the possibility of releasing parts of the documents⁴. However, as the information contained in each of the documents forms an inseparable whole, the General Secretariat is also unable to give partial access to the documents.

² 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](#).

³ Article 4(1), point (a), first and third indent, and point (b), and Article 4(3), second paragraph, of Regulation (EC) No 1049/2001.

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

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 specify your reasons.

Yours sincerely,

Fernando Florindo

Documents enclosed: 2



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TV programme *Temps présent*

Mr Fernando Florino

Directorate-General for
Communication and
Information – COMM,
Information and Outreach
Directorate, Information
Services Unit / Transparency
Head of Unit
Geneva,
10 February 2026

Subject: Confirmatory application concerning a request for access to documents (Ref. 26/0061)

Dear Sir/Madam,

We hereby submit a confirmatory application concerning our abovementioned request for access to documents. Our initial application is enclosed (Annex 1).

The request

On 8 January 2026, we submitted a request for access to ‘any documents, reports, minutes, bank statements, descriptions, exchanges of written and electronic correspondence, images, photographs or videos relating to the EU’s decision-making concerning the Swiss citizen Jacques Baud, who is subject to decision 2025/2568 (OJ L 202502568) of 15 December 2025 imposing financial restrictive measures.’

Mr Jacques Baud is referred to in the annex as follows:

Identifying information: ‘Function: former colonel in the Swiss army; former strategic analyst, intelligence and terrorism specialist’.

The statement of reasons for the listing is as follows: ‘Jacques Baud, a former Swiss army colonel and strategic analyst, is a regular guest on pro-Russian television and radio programmes. He acts as a mouthpiece for pro-Russian propaganda and makes conspiracy theories, for example accusing Ukraine of orchestrating its own invasion in order to join NATO. Therefore, Jacques Baud is responsible for, implementing or supporting actions or policies attributable to the Government of the Russian Federation which undermine or threaten stability or security in a third country (Ukraine) by engaging in the use of information manipulation and interference.’

On 9 January 2026, the Directorate-General for Communication and Information (COMM) registered our request.

Reply from COMM

On 28 January, COMM provided its reply, identifying six documents and refusing access to documents 16244/25 and 16245/25 as well as to both versions of an ‘evidence pack’. In its letter, COMM indicated that documents 16244/25 and 16245/25 contain ‘earlier draft versions of the relevant decision and regulation, which differ from the adopted versions’ and that therefore their

disclosure could enable ‘*conclusions to be drawn regarding internal EU discussions*’ concerning the restrictive measures in question.

As a result, this would weaken the EU’s position on the international stage and

‘*its ability to implement the adopted measures effectively and to adopt others in the future*’. Disclosing these documents, which consist of sensitive personal data relating to natural persons, would undermine the privacy and integrity of the identified individuals. It applies the same reasoning to the versions of the evidence pack. Partial access to the documents was refused because the information contained in each of the documents ‘*forms an inseparable whole*’.

Grounds for challenge

We consider this refusal to be unfounded for the following reasons.

1. Potential undermining of the decision-making process

Article 4(3), second paragraph, of Regulation No 1049/2001 states that ‘[a]ccess to a document containing opinions for internal use as part of deliberations and preliminary consultations within the institution concerned shall be refused even after the decision has been taken if disclosure of the document would seriously undermine the institution’s decision-making process, unless there is an overriding public interest in disclosure’.

According to settled case-law, the application of the exception in Article 4(3) requires the institution to demonstrate that access must specifically and actually undermine the protection of its decision-making process and that ‘the risk of that interest being undermined was reasonably foreseeable and not purely hypothetical’ (General Court, judgment of 7 June 2011, *Toland v Parliament*, T-471/08, paragraph 70 and the references cited).

COMM’s argument that the decision-making process would be undermined is insufficiently precise and is contrary to CJEU case-law. Indeed, the CJEU uses the conditional ‘would enable’ or ‘would weaken’ without explaining in detail how, specifically, the disclosure of the documents would compromise the decision-making process concerning similar measures in the future. While, according to the CJEU, the risk must be ‘foreseeable and not purely hypothetical’, COMM fails to demonstrate this.

2. Potential undermining of public security and international relations

Again, COMM relies on a purely hypothetical risk.

It should also be noted that reasons for listing such as ‘*he has acted as a mouthpiece for Russian propaganda and makes conspiracy theories*’, citing the example that he accuses ‘*Ukraine of orchestrating its own invasion in order to join NATO*’, should logically be based partly on public statements in the media and on other platforms that are already publicly available. Therefore, if this information appears in the evidence pack or other documents, it is not clear how their disclosure would impede public security or international relations within the European Union.

3. Undermining of the protection of the public interest in data protection

Article 4(1), point (b), of Regulation (EC) No 1049/2001 states that access may be refused on grounds relating to the protection of personal data.

In this connection, the Court of Justice has held that refusal of access is not the only way of striking a balance between transparency and the protection of personal data. Indeed, it has held that Regulation 1049/2001 permits the redaction of names (CJEU, judgment of 29 June 2010, *Commission v Bavarian Lager*, C-28/08 P, paragraph 76).

Therefore, we request that redacted versions of the documents be supplied, omitting any content that could undermine data protection.

4. Refusal of partial access

Article 4(6) of Regulation (EC) No 1049/2001 requires any part of a document not covered by an exception to be released. The refusal to grant partial access is not consistent with the law. COMM's argument that the information contained in the documents '*forms an inseparable whole*' is not demonstrated. This is an extremely brief statement of reasons that fails to take into account the parts of the document not covered by the exceptions.

5. Absence of an overriding public interest in disclosure

At no point did COMM consider the issue of an overriding public interest in disclosure of the documents, and yet there is a clear public interest in disclosure. The documents could make it possible to understand in detail why restrictive measures were imposed on Mr Baud, particularly in the light of freedom of expression. This is clearly a matter of high public interest, as evidenced by the media coverage and political reactions in Switzerland.

In this connection, three parliamentary questions have been tabled in Switzerland following Mr Baud's listing in Annex I to Regulation (EU) 2024/2642 (Annex 2). His sanctioning has sparked a lively political debate in Switzerland. The parliamentary questions raise the matter of the procedure followed and the requirements of a fair trial within the meaning of the ECHR. One MP asks:

'Does this decision not reveal a worrying slide into authoritarianism in the EU?' In addition, there is the question of the veracity of the accusations made against Mr Baud. Finally, the freedom of expression inherent in democracy is also mentioned: *'In a democracy, we must also accept views that are disturbing and controversial'*.

It is crucial that the facts on which the EU relies to impose restrictive measures on a Swiss citizen are established in detail and in full transparency. Without transparency, the measure could appear arbitrary and unfounded in the eyes of the public. The parliamentary questions reveal concern about the freedom to express dissenting opinions. In fact, this listing has sparked a debate about freedom of expression and the plurality of ideas within the EU.

Greater transparency in the decision-making process regarding the imposition of restrictive measures must not be regarded as a risk but as an opportunity to highlight the principles of the rule of law, transparency, openness and good governance inherent in Regulation No 1049/2001, which are enshrined in the case-law of the CJEU (CJEU, judgment of 1 July 2008, *Kingdom of Sweden and Maurizio Turco v Council of the European Union*, joined cases C-39/05 P and C-52/05 P, paragraphs 44 to 47 and 67).

For all these reasons, we consider that COMM is legally obliged to disclose the requested documents.

Please do not hesitate to contact us should you have any questions.

Regards,

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Annexes: as mentioned.
