



Brussels, 31 March 2026  
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**NOTE**

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From: General Secretariat of the Council  
To: Delegations  
Subject: Public access to documents - Confirmatory application N° 18/c/01/26  
- Information to delegations

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Delegations will find attached:

- the request for access to documents sent to the General Secretariat of the Council on 16 February 2026 and registered on the same day (Annex 1);
- the reply from the General Secretariat of the Council dated 30 March 2026 (Annex 2);
- the confirmatory application dated 30 March 2026 and registered on the same day (Annex 3).

From: **DELETED**

Sent: Monday, February 16, 2026 9:59 AM

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

Subject: access to documents request - FTT negotiations

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 documents related to the negotiations on a Financial transaction tax, before and after the enhanced cooperation was launched

Yours faithfully,

**DELETED**

**DELETED**

1012 SG Amsterdam

The Netherlands

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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, 30 March 2026

**DELETED**

E-mail: **DELETED**

Ref. 26/0632

Request made on: 16.02.2026

Deadline extension: 09.03.2026

Dear **DELETED**,

Thank you for your request for access to documents of the Council of the European Union.<sup>1</sup>

You have requested access to “*all documents related to the negotiations on a Financial transaction tax, before and after the enhanced cooperation was launched.*”

A search on the Council’s Public Register, based on the file’s interinstitutional number 2013/0045 (CNS), will enable you to access [22 freely available documents](#).

In addition, we have identified as falling within the scope of your access request :

- a) documents 13412/13, 7737/14, 5737/21, WK 4397/2018, WK 5672/2019 and WK 9973/2019, which are also freely available on the Council’s [Public Register](#), as well as
- b) documents 10966/10, 12440/10, 6204/11, 7000/11, 7446/11, 11586/11, 17321/11, 14853/13, 8223/14, 5320/15 and 8037/16, which you will find attached.

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<sup>1</sup> 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).

We have also identified as falling within the scope of your access request document **6013/16**, a partially accessible version of which is freely available on the Council's [Public register of documents](#). The General Secretariat of the Council (GSC) has assessed whether further access could be given to the parts of the document that have not yet been given public access to. However, these parts of the document contain legal advice relating to a particularly sensitive topic, namely, enhanced cooperation by a limited number of states, which potentially involves some tension between participating and nonparticipating Member States and may therefore generate a real risk of legal challenge. The legal advice is therefore particularly sensitive and wide in scope. For these reasons, the full disclosure of this document would undermine the protection of legal advice under Article 4 (2), second indent, of Regulation (EC) No. **1049/2001**. It would make known to the public an internal opinion of the Legal Service, intended for the members of the Council. The possibility that the legal advice in question be disclosed to the public may lead the Council to display caution when requesting similar written opinions from its Legal Service. Lastly, the Legal Service could come under external pressure which could affect the way in which legal advice is drafted and hence prejudice the possibility of the Legal Service to express its views free from external influences.

In addition, the negotiations in question are still ongoing and no agreement has been reached between the Member States concerned so far. As a result, enhanced cooperation has not been yet established. Full disclosure of the legal opinion at this stage would affect the ongoing negotiating process and diminish the chances of reaching an agreement. Full disclosure of the document would therefore seriously undermine the decision-making process of the Council within the meaning of Article 4(3), first subparagraph of Regulation (EC) No **1049/2001**.

As regards the existence of an overriding public interest in disclosure, having examined the context in which the documents were drafted and the current state of play on this matter, on balance, the GSC could not identify any evidence suggesting an overriding public interest in full disclosure of the document in question. In particular, as regards the existence of an overriding public interest in disclosing the requested document in relation to the interests in protecting the ongoing decision-making procedure and in having a frank, objective and comprehensive legal advice under Regulation (EC) No **1049/2001**, the General Secretariat considers that, on balance, given the wide scope of the legal advice contained in the document, the principle of transparency which underlies Regulation (EC) No **1049/2001** would not, in the present case, prevail over the above indicated interests so as to justify disclosure of the document.

In view of the foregoing, the GSC is unable to grant you further access to document ST **6013/16**.

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: 11

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From: **DELETED**

Sent: Monday, March 30, 2026 10:29 AM

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

Subject: Re: Ref. 26/0632

Dear TRANSPARENCY Access to documents (COMM), I hereby submit a confirmatory application under Article 7(2) of Regulation (EC) No 1049/2001 with regard to your reply of 30 March 2026 concerning my request for access to documents (Ref. 26/0632), in particular the refusal to grant full access to document ST 6013/16.

#### 1. Absence of a genuine risk to the decision-making process

The refusal relies in part on Article 4(3), first subparagraph, of Regulation 1049/2001, on the basis that disclosure would undermine an ongoing decision-making process.

However, this reasoning no longer holds in the present case. The European Commission has announced, in its 2026 Work Programme, its intention to withdraw the Financial Transaction Tax proposal. In these circumstances, there is no longer a realistic prospect of the legislative process advancing.

Accordingly, disclosure can no longer undermine any ongoing negotiations or decision-making process. The risk invoked by the General Secretariat is therefore purely hypothetical and does not meet the requirement, established in the case-law of the Court of Justice, that the risk of harm be reasonably foreseeable and not merely speculative.

#### 2. Legislative nature of the document and heightened transparency

The requested document forms part of a legislative procedure concerning a matter of significant public importance, namely EU taxation policy. As established by the Court of Justice, notably in *Case C-39/05 P* and *C-52/05 P* (*Sweden and Turco v Council*), there is a particularly strong interest in transparency where institutions are acting in their legislative capacity.

In this context, the protection of legal advice must be interpreted strictly, and the institution must demonstrate specifically how disclosure would seriously undermine its interest. The reasoning provided remains general and abstract, referring to potential external pressure and a possible chilling effect on the Legal Service, without establishing a concrete and specific risk in relation to the document at issue.

#### 3. Passage of time and reduced sensitivity

Document ST 6013/16 dates from 2016. Given the significant lapse of time, and in light of the announced withdrawal of the proposal, the sensitivity of the legal advice has necessarily diminished.

The General Secretariat has not demonstrated why a legal opinion that is nearly a decade old would still require protection to the extent claimed, particularly in the absence of an ongoing legislative process.

#### 4. Overriding public interest in disclosure

There is a clear overriding public interest in disclosure. The Financial Transaction Tax proposal has been the subject of extensive political debate and has important implications for financial markets, Member State relations, and EU fiscal policy.

#### 5. Duty to grant the widest possible partial access

Finally, even if certain parts of the document were to remain covered by an exception, the institution is under an obligation to grant the widest possible partial access. The reasoning provided does not demonstrate that such an assessment was carried out in a sufficiently detailed manner.

In light of the above, I respectfully request that the Council review its position and grant full access to document ST 6013/16, or, at a minimum, wider partial access.

Yours sincerely,

**DELETED**

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