Council of the European Union

Brussels, 17 June 2026
(OR. it)

10609/26

API 127
INF 175

NOTE

From:	General Secretariat of the Council
To:	Delegations
Subject:	Public access to documents – Confirmatory application No 31/c/01/26 – Information for delegations

Delegations will find enclosed:

- the request for access to documents sent to the General Secretariat of the Council on 25 April 2026 and registered on 27 April 2026 (Annex 1);
- the reply of the General Secretariat of the Council, dated 11 June 2026 (Annex 2);
- the confirmatory application, dated 13 June 2026 and registered on 15 June 2026 (Annex 3).

ANNEX 1

From: REDACTED
Sent: Saturday 25 April 2026, 21:03
To: Public Info Service
Subject: Access to documents – WP on Tax Questions – Direct Taxation

Hello,

I would need the following documents:

(1) In Room Document # 1 Working Party on Tax Questions – Direct Taxation of 18 March 2016 – Ref.: Ares (2016) 3253833 - 07/07/2016, on page 3, reference is made, with regard to preamble 3a, to a document # 2. I would need a copy of this document # 2 referred to in the Presidency comment.

(2) In Room document # 1 Working Party on Tax Questions – Direct Taxation Anti-Tax Avoidance Directive (ATAD) of 6 April 2016 – Ref.: Ares (2016) 3255475 - 07/07/2016, on page 3, reference is made, with regard to preamble 3a, to a document # 4. I would need a copy of this document # 4 referred to in the Presidency comment.

(3) Finally, I would also need Room document # 6 Working Party on Tax Questions – Direct Taxation Anti-Tax Avoidance Directive (ATAD) of 18 March 2016 – Ref.: Ares (2016) 1611270.

Thank you
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ANNEX 2

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, 11 June 2026

REDACTED
Email: REDACTED

Ref.: 26/1651

Request sent on: 25 April 2026
Registered on: 27 April 2026
Deadline extended on: 21 April 2026

Dear Mr REDACTED,

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

Please note that the Council does not use Ares reference numbers for identifying documents in its possession. However, on the basis of the information provided in your request, the General Secretariat of the Council (GSC) considers that the documents requested are those referred to in this reply.

Please find attached the following document you have requested:
'***document** # **2**, referred to in the Presidency comment', 'in Room document # 1 Working Party on Tax Questions – Direct Taxation of 18 March 2016', '– Ref.: Ares (2016) 3253833 - 07/07/2016, on page 3', 'with regard to preamble 3a* '.

[1] The General Secretariat of the Council has reviewed your request in accordance with 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).

Please also find attached a partially accessible version of '***document # 4** referred to in the Presidency comment*', 'in Room document # 1 Working Party on Tax Questions – Direct Taxation Anti-Tax Avoidance Directive (ATAD) of 6 April 2016' '– Ref.: *Ares (2016) 3255475 - 07/07/2016, on page 3', 'with regard to preamble 3a '*.[2]

Having duly consulted the European Commission as the originator of the document,[3] and based on the information received from it, the GSC has come to the conclusion that full access cannot be given for the reasons set out below:

The redacted parts of this document contain market-sensitive considerations drawn up in 2016 in the context of efforts to combat tax avoidance. They were, and remain – in the context of the ongoing reconsideration of the EU's tax framework by the European Commission – relevant to the minimum level of protection of the internal market against tax avoidance practices, as well as to the possibility for Member States to maintain or introduce stricter rules to protect their corporate tax bases.

The GSC considers that disclosure of these considerations could reveal the institutions' understanding of the degree of flexibility left to Member States, as well as possible issues in demonstrating the relationship between national rules and the minimum standard established at Union level. Such information could be relied upon by economic operators to challenge national anti-tax-avoidance measures, thereby giving rise, for instance, to market uncertainty or speculation. It could also facilitate the identification of tax-planning opportunities based on differences between national regimes, thereby affecting the safeguards intended to protect the orderly implementation of measures relevant to financial or economic policy.

These elements therefore touch upon a particularly sensitive aspect of the Union's anti-tax-avoidance policy, namely the balance between harmonisation, national fiscal autonomy and the effective protection of tax revenues. In those circumstances, disclosure could undermine the effectiveness of the Union's anti-tax-avoidance framework and weaken the protection of corporate tax bases within the internal market. It would therefore risk prejudicing the public interest as regards the financial and economic policy of the Union and of the Member States.

On this basis, a release of the full content of the document could undermine important elements of the economic and financial policy of the Union (Article 4(1)(a), fourth indent)

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

Accordingly, the GSC considers that the redacted parts of the requested document fall within the scope of Article 4(1)(a), fourth indent, of Regulation (EC) No 1049/2001, concerning the protection of the public interest as regards the financial, monetary or economic policy. Their disclosure would entail a reasonably foreseeable and not purely hypothetical risk of undermining that public interest. For this reason, the GSC must refuse access to the relevant redacted parts.[4]

However, as indicated above, partial access is granted, pursuant to Article 4(6) of Regulation (EC) No 1049/2001, to the rest of the document which is not covered by the abovementioned exception.

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 consider such a review necessary, please state the reasons for your request.

Finally, I regret to inform you that the GSC in not in possession of '***document #6*** '*Working Party on Tax Questions – Direct Taxation Anti-Tax Avoidance Directive (ATAD) of 18 March 2016 - Ref. Ares(2016)1611270*'.'

Yours sincerely,

Fernando Florindo

Attachments: 2

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

From: **REDACTED**

Sent: Saturday, June 13, 2026 8:42 PM

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

Subject: RE: Ref.: 26/1651 – Ares (2026) 5967814

Please find attached a reply to your email of 11 June.

Your sincerely,

REDACTED

Directorate-General for Communication and Information (COMM) Information and Outreach Directive Information Services Unit / Transparency

Subject: Reply to your email of 11 June 2026 (ref.: 26/1651)

Dear Mr Florindo,

First of all, I want to thank you for your reply to my request for documents.

I must, however, point out that the document requested by me and referred to as ***'Room document # 4 of 18 March 2016'*** is cited in academic literature.[5]

These sources expressly refer to that document, emphasising, among other things, the Commission's position on the maximum harmonisation nature of the definition of non-genuine found in paragraph 2 of the GAAR rule.

I do not therefore see the reason for not providing the document in its entirety, as it has already been shared with other requesters.

I therefore request the document once again, trusting in a positive response from you to this.

Yours sincerely,

Rome, 13 June 2026

[5] Haslehner, W., 'The General Scope of the ATAD and its Position in the EU Legal Order', in: Haslehner, W. et al. (eds.), *A Guide to the Anti-Tax Avoidance Directive,* Cheltenham, 2020, p. 36, footnote 15; Velthoven, M., *The General Anti-Abuse Rule of Article 6 of the EU Anti-Tax Avoidance Directive.* doctoral dissertation, Universiteit van Amsterdam, 2024, available at <https://dare.uva.nl/>, p. 146, footnote 578.