



Council of the European Union
General Secretariat

Brussels, 8 January 2025

CM 5148/24

INF
API
PROCED

COMMUNICATION

WRITTEN PROCEDURE

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Subject: PUBLIC ACCESS TO DOCUMENTS
– Confirmatory application No 29/c/01/24
– Outcome of the written procedure initiated by CM 5147/24

Delegations are hereby informed that the written procedure for the adoption of the reply to the above-mentioned confirmatory application (see CM 5147/24) was completed on 8 January 2025 and that:

1. all delegations agreed to the adoption of the reply to the confirmatory application No 29/c/01/24 (reply annexed to document ST 15824/24);
2. a majority of delegations agreed to the publication of the outcome of this written procedure, including the names of the Member States voting NO to the first question or abstaining, as well as possible unilateral statements.

The statement by The Netherlands is reproduced in the Annex to this CM.

Statement by The Netherlands

The Netherlands agrees with the General Secretariat of the Council that disclosure of the requested documents would undermine the protection of the public interest as regards privacy and the integrity of the individual and the protection of the decision-making process, and should therefore be refused. This refusal is in line with the great importance attached by the Netherlands to the confidentiality of the procedure for appointing judges to the Court of Justice of the EU. However, the Netherlands cannot concur with the reasoning in the draft reply that disclosure of the requested documents would undermine the protection of court proceedings, in particular because the requested documents have no (direct) relation to (ongoing) legal proceedings. The Netherlands can also not concur with the reasoning in the draft reply that disclosure of the requested documents would undermine the protection of commercial interests, because it is not clear what kind of commercial interests of the candidates would be affected by the disclosure of the documents. The Netherlands also wants to underline that the case law of the Court of Justice does not give any instructions about the application and interpretation of this ground in relation to commercial interests of natural persons (like candidates).
