



Brussels, 1 August 2022

CM 4063/22

LIMITE

INF
API
PROCED

COMMUNICATION

WRITTEN PROCEDURE

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Subject: PUBLIC ACCESS TO DOCUMENTS
– Confirmatory application No 07/c/01/22
– Outcome of the written procedure initiated by CM 4062/22

Delegations are hereby informed that the written procedure for the adoption of the reply to the above-mentioned confirmatory application (see CM 4062/22) was completed on 29 July 2022 and that:

1. all delegations agreed to the use of the written procedure to adopt the reply referred to below;
2. the majority of the delegations agreed to the adoption of the reply to the confirmatory application No 07/c/01/22 (reply annexed to document ST 10794/22), with Poland voting against and Germany and Greece abstaining;
3. the majority of the delegations agreed to publish the result of the vote.

STATEMENT OF POLAND

Poland supports the initial decision by the Council's General Secretariat pursuant to Article 4(3), first subparagraph, of Regulation (EC) No 1049/2001 (the exception related to the protection of the decision-making process of the Council) and considers that the applicant's justification of the public interest is not sufficient. The debate concerning encryption is ongoing and the participation of citizens in democratic decision making process is guaranteed in different forms, especially via public consultations during the legislative procedure.

Moreover Poland is of the opinion that the disclosure of the relevant documents would undermine the protection of the public interest as regards public security (Article 4(1) of Regulation (EC) No 1049/2001). The growing use of encrypted electronic communication to conduct all forms of criminal activity remains a fact. The background and the outcome of the Member States discussion on methods and forms of preventing and combating this practice should not be revealed to the general public. Disclosure of this type of information could result in a further reduce of law enforcement capacity to respond to emerging threats and thus a decrease in the effectiveness of investigation and prosecution of perpetrators.