



Council of the
European Union

Brussels, 6 July 2022
(OR. en)

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NOTE

From: General Secretariat of the Council
To: Delegations
Subject: Public access to documents
- Confirmatory application No 12/c/02/22

Delegations will find attached:

- the request for access to documents sent to the General Secretariat of the Council on 5 May 2022 and registered on the same day (Annex 1);
- the replies from the General Secretariat of the Council dated 22 June and 4 July 2022 (Annex 2);
- the confirmatory application dated 27 June 2022 and registered on the same day (Annex 3).

[E-mail message sent to access@consilium.europa.eu on 5 May 2022 - 15:48]

From: **DELETED**

Sent: Thursday, May 5, 2022 3:48 PM

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

Subject: Meetings and Correspondence on Energy Charter Conference [#248363]

Request for documents under EU regulations 1049/2001 and 1367/2006

Dear Sir or Madam,

I hereby request request access to documents concerning the following information:

- List of all meetings the Council, Coreper or the Working groups had in connection to the below mentioned Meetings of the Energy Charter Conference, including but not only preparatory meetings and meetings with other contract parties.
- Minutes and other reports of these meetings.
- All correspondence including attachments (i.e. any emails, correspondence or telephone call notes) as of the below mentioned Meetings of the Energy Charter Conference.
- All documents prepared for the meetings and exchanged in the course of the meetings between the parties.

30th Meeting of the Energy Charter Conference (10 - 11 December 2019) 31st Meeting of the Energy Charter Conference (16 - 17 December 2020) 32nd Meeting of the Energy Charter Conference (14 December 2021)

I strongly prefer a reply by email to this address and not via a web portal. I would appreciate an acknowledgment of receipt and would like to thank you in advance.

Kind regards

DELETED



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, 22 June 2022

DELETED

Email: **DELETED**

Ref. 22/0989-mj/ns

Request made on: 05.05.2022

Deadline extension: 31.05.2022

Dear **DELETED**,

Thank you for your request for access to “documents concerning the following information:

- List of all meetings the Council, Coreper or the Working groups had in connection to the below mentioned Meetings of the Energy Charter Conference, including but not only preparatory meetings and meetings with other contract parties.
- Minutes and other reports of these meetings.
- All correspondence including attachments (i.e. any emails, correspondence or telephone call notes) as of the below mentioned Meetings of the Energy Charter Conference.
- All documents prepared for the meetings and exchanged in the course of the meetings between the parties.

30th Meeting of the Energy Charter Conference (10 - 11 December 2019)

31st Meeting of the Energy Charter Conference (16 - 17 December 2020)

32nd Meeting of the Energy Charter Conference (14 December 2021)¹.

¹ 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).

The following documents were identified as corresponding to your request:

- **CM 4871/19**: Agenda of the Working Party on Energy of 26 November 2019 (item 1)
- **CM 5019/19**: EU Coordination meeting of 10 December 2019 - Energy Charter Conference
- Message 1584/19 Rev 5 of the Energy Charter Secretariat
- **ST 14235/19**: Information Note of 27 November 2019 from the GSC to the Council - Any other business - Recent developments in the field of external energy relations - Information from the Commission (item j - pages 7 & 8)
- **ST 14244/19**: Agenda of the Permanent Representatives Committee of 27 November 2019 (item 24)
- **ST 14289/19**: 'I/A' Item Note from GSC to COREPER/Council – ENERGY Charter Conference: - Draft Conclusions of the Review under Article 34(7) of the Energy Charter Treaty - Draft budget 2020-2021 = Establishment of the EU position
- **ST 14382/19**: Note from GSC to COREPER/Council - ENERGY Charter Conference:
 - Draft Conclusions of the Review under Article 34(7) of the Energy Charter Treaty
 - Draft budget 2020-2021
 - = Establishment of an EU position
- **ST 14395/19**: Agenda of the Council (Transport, Telecommunications and Energy) of 2, 3 & 4 December 2019 (item 12)
- **ST 14421/19**: List of A Items of the Council (Transport, Telecommunications and Energy) of 2, 3 & 4 December 2019 (item 3)
- **ST 14695/19**: Outcome of the Council meeting (Transport, Telecommunications and Energy) of 2, 3 & 4 December 2019 (page 13)
- **ST 14883/1/19 REV 1**: Draft Minutes of the Council (Transport, Telecommunications and Energy) of 2, 3 & 4 December 2019 (item 12)
- **ST 15086/19**: Summary Record of the Permanent Representatives Committee of 27 & 29 November 2019 (item 24)
- **CM 5121/1/19 REV 1**: Agenda of the Working Party on Energy of 16 December 2019 (AOB 4 (a))

- **CM 4982/1/20 REV 1**: Agenda of the informal videoconference of the members of the Working Party on Energy of 8 December 2020 (item 3)
- **CM 5297/1/20 REV 1**: Agenda of the informal videoconference of the members of the Working Party on Energy of 15 December 2020 (item 2)
- **CM 5386/20**: Agenda of the informal videoconference of the members of the Working Party on Energy of 5 January 2021 (item 5)

Please note that no document was identified in relation to the 32nd meeting of the Energy Charter Conference of 14 December 2021.

Please note that the defriefs on the meetings of the Energy Charter Conference are oral.

You will find attached the abovementioned documents except Message 1584/19 Rev 5 and ST 14382/19 for which the external consultations are still ongoing. You will be notified of a decision on these two documents as soon as possible. We apologise for the delay in replying to your request.

Yours sincerely,

Fernando FLORINDO

Enclosures: 14



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, 04 July 2022

DELETED

Email: **DELETED**

Ref. 22/0989-ADD-mj/vk

Request made on: 05.05.2022
Deadline extension: 31.05.2022
1st reply sent on: 22.06.2022

Dear **DELETED**,

Further to our letter of 22 June 2022 regarding your request for access to documents, the General Secretariat of the Council is now in a position to reply regarding the two remaining documents¹.

After having consulted the Energy Charter Secretariat, the General Secretariat of the Council has come to the following conclusion.

You may have access to the **Message 1584/19 Rev 5** except to the parts which contain personal data about a member of the Energy Charter Secretariat.

Disclosure of this information would undermine the protection of privacy and the integrity of the individuals in question, in particular in accordance with European legislation regarding the protection of personal data.² Accordingly, pursuant to Article 4(1)(b) of the Regulation (EC) No 1049/2001 (protection of privacy and the integrity of the individual), the General Secretariat is unable to grant you access to these parts of the document.

¹ 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)

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 (OJ L 295, 21.11.2018, p. 39).

However, as abovementioned, pursuant to Article 4(6) of the Regulation, you may have access to the rest of the document which is not covered by this exception.

I regret to inform you that access to document 14382/19 cannot be given for the reasons set out below.

Document **14382/19** is a Note of 20 November 2019 from the General Secretariat of the Council to the Permanent Representatives Committee/Council on the Energy Charter Conference which contains a document from the Energy Charter Secretariat on the draft conclusions of the review conducted in accordance with Article 34(7) of the Energy Charter Treaty and a draft budget for 2020-2021.

This document contains information the disclosure of which would undermine the relations between the European Charter Secretariat and the contracting parties of the Energy Charter Treaty.

Disclosure of the document would therefore undermine the protection of the public interest as regards international relations. As a consequence, the General Secretariat has to refuse access to the document.³

We have also looked into the possibility of releasing parts of the document.⁴ However, as the exception to the right of access applies to its entire content, the General Secretariat is unable to give partial access at this stage.

Concerning the draft budget 2020-2021, the Energy Charter Secretariat has informed us that the final version is public and available via the following link: ([CCDEC 201913](#)).

We apologise for the delay in replying to your request.

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

Enclosure

³ Article 4(1)(a), third indent, of Regulation (EC) No 1049/2001.

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

[E-mail message sent to access@consilium.europa.eu on 27 June 2022 - 14:31]

From: **DELETED**

Sent: Monday, June 27, 2022 2:31 PM

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

Subject: Re: Ref. 22/0989-mj/ns [#248363]

Dear Sir or Madam,

I herewith fill an confirmatory appeal. During the period of my question, the Energy Working Group held several meetings to discuss the modernisation of the Energy Charter Treaty. In such an important institution as the EU, there will certainly be documents on these meetings, on the preparation, lists of participants as well as minutes. Unfortunately, you did not mention these meetings or the relevant documents in your answer. I would therefore ask you to send me these documents as soon as possible.

I would also like to ask you to send me the documents for which you have initiated external consultations.

Sincerely yours,

DELETED
