



Council of the
European Union

Brussels, 7 October 2022
(OR. en)

13257/22

INF 159
API 88

NOTE

From: General Secretariat of the Council
To: Delegations

Subject: Public access to documents
- Confirmatory application No 18/c/01/22

Delegations will find attached:

- the request for access to documents sent to the General Secretariat of the Council on 16 August 2022 and registered on the same day (Annex 1)¹;
- the reply from the General Secretariat of the Council dated 16 September 2022 (Annex 2)²;
- the confirmatory application dated 3 October 2022 and registered on the next day (Annex 3)³.

¹ Translated from Czech.

² English version.

³ Translated from Czech.

[E-mail message sent to access@consilium.europa.eu on Tuesday 16 August, 2022 10:45 using the electronic form available in the Register application]

From: **DELETED**

Sent: Tuesday 16 August 2022 10:45

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

Subject: Consilium - Electronic Request for Access to documents [CZECH]

DELETED

Family name **DELETED**

First name **DELETED**

E-mail **DELETED**

Occupation **DELETED**

On behalf of **DELETED**

Full postal address **DELETED**

Mobile phone **DELETED**

Requested document(s):

I hereby request disclosure of the document (counting) on the basis of which the costs of the proceedings brought by the General Court in Case T-267/20, Mr Arbutov x Council of the EU were paid by the Council of the EU, together with a statement as to whether, when and to whom the costs were paid by the Council of the EU. In the event that it is not possible to provide the document (invoicing), I would ask for information as to whether the costs of the General Court's proceedings in Case T-267/20 have been reimbursed by the Council of the EU, in what total amount, for what legal services and in what amount, how the remuneration for the lawyer's remuneration was calculated, whether in an hourly rate or in another way and at what amount.

1st option: CS

2nd option: EN



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, 16 September 2022

DELETED

Email: **DELETED**

Ref. 22/1716-mj/nb

Request made on: 16.08.2022

Deadline extension: 06.09.2022

Dear **DELETED**,

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

We have identified two documents falling within the scope of your access to documents request.

These documents concern the recovery of costs following the Court's judgment in case T-267/20 Arbuzov v Council on 7 July 2021.

However, pursuant to Article 4(2) first indent (protection of the commercial interests) of Regulation (EC) No 1049/2001, access is refused to the requested documents.

The requested documents contain elements which would, if disclosed, seriously undermine the commercial interests of the applicant in case T-267/20. The documents contain commercially sensitive information relating to the costs associated to legal proceedings, such as the legal fees or the work carried out by the legal representation of the applicant in that case. The disclosure of this information is liable to cause serious commercial harm to the person who has provided it to the Council.

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).

We have also looked into the possibility of releasing parts of the documents.² However, as the exceptions to the right of access apply to their entire content, the General Secretariat is unable to give partial access.

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

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

[E-mail message sent to access@consilium.europa.eu on Monday, 3 October, 2022 23:58]

From: **DELETED**

Sent: Monday 3 October 2022 23:58

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

Subject: Re: Ref. č. 22/1716-mj/nb

Hello,

following the letter from the General Secretariat of the Council concerning my request for access to documents, I request that the decision be reviewed, for the following reasons.

The request was not granted, on the basis of the exception under the first indent of Article 4(2) of Regulation (EC) No 1049/2001, as the documents contain elements which, if disclosed, would seriously undermine the commercial interests of the applicant in Case T-267/20. The documents supposedly contain commercially sensitive information relating to costs linked to legal proceedings.

I do not agree with that conclusion.

The reimbursement of costs does not represent the commercial interests of the parties to the proceedings within the meaning of Regulation (EC) No 1049/2001, since the relationship of the parties to proceedings before the General Court is not a commercial relationship. No commercial interests or business secrets are undermined. In the present case, it should be pointed out that it is the final conclusion of the proceedings before the General Court and that, therefore, the publication of information on the reimbursement of costs claimed by the applicant cannot in any way negatively affect the applicant. In addition, it should be noted that, should the applicant's application for costs not be upheld, proceedings could be brought before the General Court, the decision in which would be public, including a statement of reasons containing a list of actions and compensation for them.

Consequently, no reasonable justification can be found for a different approach where the amount of costs is decided by the General Court at the request of one of the parties; such a decision specifies and makes public the amounts and the actions or fees for which costs are awarded, as against the case in which a party's claim for costs is granted directly by the other party liable to pay them.

For these reasons, I request a review of the decision.

Kind regards,

DELETED
