

**Brussels, 13 November 2025
(OR. fr)**

15302/25

**API 129
INF 216**

NOTE

From: General Secretariat of the Council
To: Delegations
Subject: Public access to documents - Confirmatory application No 29/c/01/25

Delegations will find attached:

- the request for access to documents sent to the General Secretariat of the Council on 7 October 2025 and registered the same day (Annex 1);
- the reply from the General Secretariat of the Council of 28 October 2025 (Annex 2);
- the confirmatory application dated 11 November 2025 and registered on 12 November 2025
(Annex 3).

From: **DELETED**

Sent: Tuesday 7 October 2025 11:35

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

Subject: Request for access to document WK 13038/25

To whom it may concern,

I am **DELETED**. I would like to obtain a copy of the following document: WK 13038/25, preferably in English, in its latest revision.

Please feel free to contact me if you have any further questions.

Thank you very much in advance.

DELETED



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, 28 October 2025

DELETED

Email: **DELETED**

Ref. 25/2867

Request made on: 7 October 2025

DELETED

Thank you for your request for access to documents of the Council of the European Union¹.

I regret to inform you that access to document WK 13038/2025 INIT cannot be given, for the reasons set out below.

Document **WK 13038/2025 INIT** is an information note of 7 October 2025 from the General Secretariat of the Council to the Audiovisual and Media Working Party. It contains a presentation by the Presidency regarding the revised draft Council conclusions on access to reliable news as part of the European Democracy Shield.

Those draft conclusions were examined by the Audiovisual and Media Working Party for the first time on 11 July. They are still under discussion within the preparatory bodies of the Council.

¹ The General Secretariat of the Council has examined your request on the basis of the applicable rules, specifically 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).

Disclosure to the public of the information contained in this note would prejudice the negotiating process and diminish the chances of the Council reaching an agreement.

Disclosure of the document at this stage would therefore seriously undermine the Council's decision-making process.

Having examined the context in which the document was drafted and the current state of play on this matter, on balance the General Secretariat could not identify any evidence suggesting an overriding public interest in its disclosure.

As a consequence, the General Secretariat must refuse access to this document at this stage².

We have also looked into the possibility of disclosing certain parts of this document³. However, as the information contained in the document forms an inseparable whole, the General Secretariat is unable to give partial access to it at this stage.

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 specify your reasons.

(Complimentary close).

Fernando Florindo

² Article 4(3), first subparagraph, of Regulation (EC) No 1049/2001.

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

From: **DELETED**

Sent: Tuesday 11 November 2025, 18:36

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

Subject: Re: Ref. 25/2867 - Ares(2025)9206458

To whom it may concern,

Thank you for your reply to my request for access to documents. Please find attached my confirmatory application to obtain a copy of this note from the Presidency, which I believe falls fully within the scope of documents that are now accessible via a request for access.

Please feel free to contact me if you have any further questions.

(Complimentary close)

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For the attention of Mr Fernando Florindo,
Information Services Unit / Transparency
General Secretariat of the Council of the European Union

11 November 2025, Brussels

Subject: Confirmatory application 25/2867 (Access to document WK 13038/2025 INIT)

Dear Mr Florindo,

In accordance with Article 7(2) of Regulation (EC) No 1049/2001, I am hereby sending you a confirmatory application following your decision of 28 October 2025 to refuse access to document **WK 13038/2025 INIT**.

I am contesting that refusal because the justifications given directly contradict the nature of the document, the case-law of the Court, and the clear public interest in the document's disclosure.

1. Undermining of the decision-making process (Article 4(3))

You justify your refusal by stating that disclosure would 'seriously undermine the Council's decision-making process'.

However, you describe this document as a simple 'information note' containing a 'presentation by the Presidency'. It is not therefore a negotiating document that reveals delegations' sensitive positions.

Your reply does not specifically explain how the disclosure of a presentation, almost three weeks after it was drafted, could still 'diminish the chances of the Council reaching an agreement'.

This approach is contrary to the settled case-law of the Court. In its judgment in *Suède and Turco v Council*, the Court held that:

'it is precisely openness [in the decision-making process] that contributes to conferring greater legitimacy on the institutions in the eyes of European citizens and increasing their confidence in them by allowing divergences between various points of view to be openly debated. **It is in fact rather a lack of information and debate which is capable of giving rise to doubts in the minds of citizens [...] as regards the legitimacy of the decision-making process as a whole**'¹.

That fundamental principle has been reaffirmed recently in the *De Capitani v Council* case, which confirmed the overriding public interest in accessing the positions of delegations within the Council's preparatory bodies to allow for effective democratic scrutiny².

¹ [Judgment of the Court \(Grand Chamber\) of 1 July 2008](#), Kingdom of Sweden and Maurizio Turco v Council of the European Union, Joined Cases C-39/05 P and C-52/05 P, point 59.

² [Judgment of the Court \(Tenth Chamber, Extended Composition\) of 25 January 2023](#), Emilio De Capitani v Council of the European Union, Case T-163/21. Link (Curia) : <https://curia.europa.eu/juris/document/document.jsf?docid=269684&doclang=EN>

2. Overriding public interest

You state that you have not found 'any evidence suggesting an overriding public interest'.

That conclusion is incorrect for two reasons:

1. **The subject itself:** The document concerns access to reliable news as part of the European Democracy Shield. Access to reliable news is, by definition, a subject of overriding public interest.

2. **The precedent of the Media Freedom Act:** The Democracy Shield intersects the issue of protecting democracy and the issue of the media. The Council's demands on that shield build upon the Media Freedom Act, the debates on which have raised many issues of fundamental public interest (including press freedom and the capacity of States to monitor journalists), which were confidential at the time and were revealed only through disclosures of negotiating documents. That did not call into question the Council of the EU's capacity to achieve a negotiating mandate, and then an agreement in the trilogue with Parliament.

3. **My status as a journalist:** My mission is to inform the public of the options being considered by the institutions in a field that concerns the very foundations of democracy. That right of the public to information, exercised by the press, is an overriding public interest that must take precedence.

3. Refusal of partial access (Article 4(6))

You refuse partial access on the grounds that the information forms an 'inseparable whole'. That justification is not credible in the case of an 'information note' and a 'presentation', which are by nature structured and easily lend themselves to partial access.

For the above reasons, I would ask you to reconsider your decision and grant me full access to document WK 13038/2025 INIT, or, failing that, meaningful partial access to it.

(Complimentary close)

DELETED
