

Brussels, 2 December 2025
(OR. en, de)

16239/25

API 141
INF 240

NOTE

From: General Secretariat of the Council
To: Delegations
Subject: Public access to documents - Confirmatory application No 32/c/01/25

Delegations will find attached:

- the request for access to documents sent to the General Secretariat of the Council on 10 November 2025 and registered on the same day (Annex 1);
- the reply from the General Secretariat of the Council dated 21 November 2025 (Annex 2);
- the confirmatory application dated 1 December 2025 and registered on the same day (Annex 3).

(The English translation of the annexes will follow.)

From: document-request@cis.consilium.europa.eu <document-request@cis.consilium.europa.eu>
Sent: Monday, November 10, 2025 12:04 PM
To: TRANSPARENCY Access to documents (COMM) <Access@consilium.europa.eu>
Subject: Consilium - Electronic Request for Access to documents [GERMAN]

This e-mail has been sent to access@consilium.europa.eu using the electronic form available in the Register application.
This electronic form has been submitted in GERMAN.

Title

DELETED

First name

DELETED

Surname

DELETED

Email

DELETED

Occupation

Academia

I am submitting this request on my own behalf.

Name of the organisation;

Full postal address:

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Phone number

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Requested document(s)

1) All the documents related to the interinstitutional file 2024/0110 (NLE) and all other documents related to the legislative procedure for Regulation (EU) 2024/1745 of 24 June 2024 including but not limited to the preparatory legislative documents and meeting documents (agendas, minutes, conclusions, votes, results)

2) All documents related to the interinstitutional file 2025/0019(NLE) and all other documents related to the legislative procedure for Regulation (EU) 2025/395 of 24 February 2025 including but not limited to the preparatory legislative documents and meeting documents (agendas, minutes, conclusions, votes, results)

3) All documents related to the interinstitutional file 2025/0168(NLE) and all other documents related to the legislative procedure for Regulation (EU) 2025/1494 of 18 July 2025 including but not limited to the preparatory legislative documents and meeting documents (agendas, minutes, conclusions, votes, results)

1 Selection

DE

2 Selection

EN

This is an automatic reply from the General Secretariat of the Council of the European Union concerning your request for access to Council documents.
This notification was sent from an unattended mailbox. Please do not reply.



Council of the European Union
General Secretariat

Directorate-General for Communication and Information – COMM
Information and Outreach Directorate
Transparency and Public Information Unit
Head of Unit

Brussels, 21 November 2025

DELETED

Email: **DELETED**

Ref.: 25/3375

Request made on: 10 November 2025

Dear **DELETED**,

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

Documents 15716/24, 15718/24 (+ADD 1), 15719/24, 16768/24, 16838/24, 5460/25, 5462/25 (+COR 1, ADD 1), 5463/25 (+COR 1), 6025/25 (+REV 1), 9123/1/25 REV 1, 9125/25 (+REV 1, ADD 1 REV 1), 9126/2/25 REV 2 und 9126/2/25 REV 2 ADD 2 are available in the [Public Register of Council documents](#) and can be downloaded from there.

Documents 15714/24, 5456/25, 9122/25, 9130/25, 9132/25, 9467/25, 10021/25, 10023/25, 10219/25, 10220/25, 15715/24 (+ADD 1), 5461/25 (+ADD 1), 9124/25 (+ADD 1, ADD 2, ADD 3), 9469/25 (+ADD 1), WK 15907/2024 INIT, 16397/24, 16398/24 (+ADD 1), 6023/25 (+REV 1), 6024/25 (+REV 1, ADD 1), 9123/25, 9125/25 (+ ADD 1), 9126/25 (+REV 1, REV 2 ADD 1, REV 2 ADD 1 REV 1) und WK 9759/2025 INIT along with the packages of evidence listed below are

¹ The General Secretariat of the Council has examined your request on the basis of 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).

subject to a presumption of confidentiality meaning it is presumed that the disclosure of these documents would harm the security of the Union or that of one or more of its Member States or the conduct of their international relations². For this reason they cannot be released.³

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.

Yours sincerely

Fernando Florindo

Evidence packages covered by your request:

LIMITE:

WK 7439/2025 INIT
WK 7388/2025 INIT
WK 7385/2025 INIT
WK 7381/2025 INIT
WK 7380/2025 INIT
WK 7360/2025 INIT
WK 2177/2025 INIT
WK 2176/2025 INIT
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WK 2172/2025 INIT
WK 2055/2025 INIT
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WK 2029/2025 INIT
WK 2027/2025 INIT
WK/2025/2025 INIT
WK 2023/2025 INIT
WK 2021/2025 INIT
WK 2019/2025 INIT

² See Article 8b of [Council Decision 2014/512/CFSP of 31 July 2014 on restrictive measures in view of Russia's actions destabilising the situation in Ukraine](#)

³ First and third indents of Article 4(1)(a) of Regulation (EC) No 1049/2001.

WK 2018/2025 INIT
WK 2016/2025 INIT
WK 2013/2025 INIT
WK 2010/2025 INIT
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WK 8428/2024 INIT
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WK 9139/2025 INIT
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WK 9024/2025 INIT

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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

Heidelberg, 1 December 2025

Subject: **Confirmatory application pursuant to Article 7(2) of Regulation (EC) No 1049/2001**

Reference: **1. My application of 10 November 2025, ref.: 25/3375**

2. Council position of 21 November 2025

Enclosure: **EEAS letter of 26 November 2025, eeas.sg.ld (2025) 12459157**

Dear Mr Florindo,

Thank you for sending the Council's position of 21 November 2025. In accordance with Article 7(2) of Regulation (EC) No 1049/2001, I hereby make a confirmatory application asking the Council to reconsider its position.

In your position of 21 November 2025, you refuse access to all the documents in my request that are not already publicly available anyway. The reasons you state for this consist of a general reference to Article 8b of Council Decision 2014/512/CFSP of 31 July 2014 on restrictive measures in view of Russia's actions destabilising the situation in Ukraine. You say that for this reason, pursuant to Article 4(1), point (a), first and third indents of Regulation (EC) No 1049/2001, the documents that I requested could not be disclosed. However, no statement of the reasons for that position based on a substantive examination of the requested documents has been given. In particular, you fail to explain how access to the documents could specifically and actually undermine the interests referred to in Article 4(1), point (a), first and third indents of Regulation (EC) No 1049/2001, even though an assessment of this aspect is necessary.

(General Court, judgment of 15 December 2021, Breyer v REA, T-158/19, paragraph 87)

The examination of my request which footnote 1 of your position claims to have taken place cannot, in any event, be inferred from the statement of reasons for the position; it thus falls short of the requirements of Article 7(1) of Regulation (EC) No 1049/2001 and Article 296(2) TFEU. The position is therefore already flawed on formal grounds alone.

I. Limiting my request

In this confirmatory application, I am limiting my initial request to the documents, or parts of documents, belonging to the group of documents identified in the Council position as concerning the insertion or amendment of Articles 11a, 11b and 11d of Regulation (EU) 833/2014. I hereby withdraw those parts of my initial application that go beyond that scope or that concern evidence packages.

My confirmatory application, which has thus been made more specific, should be upheld.

II. Legal criterion

1. Article 4(1), point (a), first and third indents of Regulation (EC) No 1049/2001 must be applied restrictively

The right of access to documents is enshrined in Article 2(1) of Regulation (EC) No 1049/2001, according to which access to documents must be granted upon application, and disclosure should only be denied in exceptional circumstances. This right is also enshrined in Article 42 of the Charter of Fundamental Rights and Article 15(3) TFEU, which are directly binding on the Council and must be duly taken into account when interpreting secondary legislation such as Article 8b, second paragraph of Decision 2014/512/CFSP and Article 4 of Regulation (EC) No 1049/2001. An application may therefore only be refused in strictly defined exceptional cases while taking care to ensure that ‘the widest possible access’ is granted pursuant to Article 1, point (a) of Regulation (EC) No 1049/2001.

(Decision of the European Ombudsman, 1039/2008/FOR, paragraph 43; Court of Justice, Case C-266/05 P, Sison v Council [2007], ECR I-1233, paragraph 61; Case C-64/05 P, Sweden v Commission, [2007], ECR I-11389, paragraph 53; Sweden and Turco v Council, paragraph 33 and Case C-139/07 P, Commission v Technische Glaswerke Ilmenau, judgment of 29 June 2010, paragraph 51)

In any event, under Article 4(6) of Regulation (EC) No 1049/2001, there must be an assessment as to whether extracts or partially redacted documents can be made available, as a less restrictive measure.

(Court of Justice, judgment of 22 January 2004 - C 353/01 P Mattila v Council, paragraph 30; Court of Justice, judgment of 22 March 2011, T-233/09, Access Info Europe v Commission, paragraph 56)

Nor does a ‘presumption of confidentiality’ relieve the EU bodies of their obligation to examine in each individual case whether that presumption is actually relevant to each document. Reasons must be stated on a case-by-case basis for this too.

(Court of Justice, judgment of 1 July 2008 - C-39/05 P Kingdom of Sweden and Turco v Council and others, paragraph 50; Court of Justice, judgment of 22 March 2011 - T-233/09, Access Info Europe v Commission, paragraph 59; Court of Justice judgment of 12 October 2022 – T-524/21, Saure v Commission, paragraph 94)

2. Disclosure of documents from the legislative procedure is of particular importance

Moreover, the documents I have requested concern a legislative procedure. According to the case-law of the Court of Justice, access to documents concerning a legislative procedure is of particular importance, since openness in this regard contributes to strengthening democracy and lends greater legitimacy to legislation, since a lack of information may give rise to doubts in the minds of citizens as to the legitimacy of the decision-making process.

(Court of Justice, judgment of 1 July 2008 - C-39/05 P Kingdom of Sweden and Turco v Council and others, paragraphs 46 and 59; Court of Justice, judgment of 17 October 2013, C-280/11 P, Council of the European Union v Access Info Europe, paragraph 33; Court of Justice, judgment of 4 September 2018, C-57/16 P, ClientEarth v Finland, paragraph 104; Court of Justice, judgment of 22 March 2011, T-233/09, Access Info Europe v Commission, paragraph 57; Court of Justice, judgment of 25 January 2023, T-163/21, de Capitani v Council, paragraph 37)

Recital 6 of Regulation 1049/2001 accordingly states that legislative documents should be made accessible to the greatest possible extent. According to the case-law of the Court of Justice, wider access should be granted to documents in cases where the institutions are acting in their legislative capacity than for administrative tasks.

(European Court of Justice (Grand Chamber), judgment of 29 June 2010, C-139/07 P, TGI v Commission, paragraph 60; European Court of Justice, judgment of 27 February 2014, C-365/12 P, Commission v EnBW, paragraph 91)

3. Academic freedom enshrined in Article 13 of the Charter of Fundamental Rights further raises the standard of the statement of reasons required of the Council

In addition, my application for access to documents relies on the academic freedom guaranteed by Article 13 of the Charter of Fundamental Rights, since the requested documents would serve my academic research at the University of Heidelberg in the field of law.

Freedom of research comprises all activities relating to research, including preparatory and supporting activities.

(Calliess, Ruffert, Ruffert, 6th Edition 2022, European Charter of Fundamental Rights, Article 13, margin note 8; Jarass, European Charter of Fundamental Rights, 4th Edition 2021, EU Charter of Fundamental Rights, Article 13, margin note 8)

The freedom to obtain research material is therefore also covered. The refusal to make research material available therefore constitutes a restriction of academic freedom under Article 13 of the Charter of Fundamental Rights in terms of positive obligations. A restriction of academic freedom must comply with the principle of proportionality under Article 52(1) of the Charter of Fundamental Rights. A refusal of my application is therefore subject to even more stringent fundamental rights requirements which require a particularly cautious and restrictive approach to the reasons for refusal under Article 8b, paragraph 2 of Decision 2014/512/CFSP and Article 4(1) of Regulation 1049/2001.

III. Application in relation to the confirmatory application

1. There is no ground for refusal under Article 4(1), point (a), of Regulation (EC) No 1049/2001

In view of the particularly restrictive application of Article 4(1), point (a), of Regulation (EC) No 1049/2001 to legislative documents and given the great importance of academic freedom, there is no ground for refusal under Article 4(1), point (a), of Regulation (EC) No 1049/2001. In particular, my confirmatory application is not barred by any grounds related to public security or international relations.

The documents I have requested relate exclusively to the insertion or amendment of Articles 11a, 11b and 11d of Regulation (EU) 833/2014. Those articles do not constitute Union restrictive measures under

public law. Rather, those articles contain provisions on obtaining damages under civil law and on the Member State civil court with jurisdiction for such claims. The addressees of Articles 11a, 11b and 11d of Regulation 833/2014 are therefore European economic operators which have suffered damage as a result of Russian counter-sanctions, and Member State civil courts which are uncertain whether they have jurisdiction for such a claim. Given that those provisions concern civil law and civil procedure, public security cannot be undermined by the disclosure of documents which relate merely to the origins of those civil-law rules.

Given that Articles 11a, 11b and 11d of Regulation 833/2014 are not directed at third countries and do not impose sanctions on them, rather are aimed at private defendants, there is also no reason to fear that international relations would be undermined by the disclosure of documents relating to those articles. International relations, i.e. relations between countries, are not undermined by private-law relations or by intra-EU rules on jurisdiction.

Conversely, there is a risk that European economic operators entitled to bring claims under Articles 11a, 11b and 11d of Regulation 833/2014 will not exercise their rights under Regulation 833/2014 because they do not know in which precise circumstances a claim would have a chance of success. The Member States' civil courts might also dismiss claims that are admissible per se because they misunderstand Article 11d of Regulation 833/2014. The disclosure of documents relating to the origins of Articles 11a, 11b and 11d of Regulation 833/2014 minimises that risk. Reasons relating to the public interest, interests of the Union and interests of effective legal protection are therefore also aspects in favour of, and not against, disclosure of the documents I have requested. These considerations underline why, according to the case-law of the CJEU, the disclosure of legislative documents is of particular importance.

2. Article 8b of Decision 2014/512/CFSP is not relevant

Article 8b of Decision 2014/512/CFSP does not lead to any other conclusion. In particular, there is no ground for refusal under Article 4 of Regulation (EC) No 1049/2001 on the basis of Article 8b of Decision 2014/512/CFSP. Article 8b of Decision 2014/512/CFSP is not applicable to the documents I have requested.

Article 8b, second subparagraph, of Decision 2014/512/CFSP reads: 'It shall be presumed that the disclosure of any documents or proposals **referred to in the first subparagraph** would harm the security of the Union or that of one or more of its Member States or the conduct of their international relations.'

The first subparagraph to which reference is made reads: '**Any document held** by the Council, the Commission or the High Representative **for the purpose of ensuring the enforcement of the measures set out in this Decision, or of preventing the violation or circumvention thereof**, shall be subject to professional secrecy...'.¹

It follows that there is a presumption of confidentiality under Article 8b, second subparagraph, of Decision 2014/512/CFSP only in respect of documents held by the Council for the specific purpose of ensuring the enforcement of the measures set out in that Decision, or of preventing the violation or circumvention thereof. Documents which are not held for that purpose are not covered by the presumption of confidentiality.

The documents I have requested therefore do not fall within the scope of Article 8b, second subparagraph, of Decision 2014/512/CFSP.

First, Articles 11a, 11b and 11d of Regulation 833/2014, to which my request exclusively relates, do not constitute measures set out in Decision 2014/512/CFSP. Articles 11a, 11b and 11d of Regulation 833/2014 are in fact governed exclusively by Regulation 833/2014. Article 8b, second subparagraph, of Decision 2014/512/CFSP refers, however, only to documents concerning the enforcement of measures set out in Decision 2014/512/CFSP.

Second, the documents I have requested are not held by the Council for the purpose of ensuring the enforcement of the measures set out in that Decision, or of preventing the violation or circumvention thereof. As already explained, the documents which I have requested are documents relating to the origins of a claim for damages under civil law. The disclosure of documents relating to the origins of the claim for damages does not undermine its enforcement or facilitate circumvention thereof. As described above, the opposite is the case and the disclosure of the documents facilitates the enforcement of the claims for damages. A claim for damages cannot be ‘circumvented’ like other restrictive measures; rules on the international jurisdiction of Member States’ civil courts even less so. The requested documents are therefore not held by the Council for the purposes required by Article 8b, second subparagraph, of Decision 2014/512/CFSP.

For these reasons, Article 8b, second subparagraph, of Decision 2014/512/CFSP is not relevant.

3. In any event, a case-by-case examination must be carried out and partial access granted

Even if Article 8b, second subparagraph, of Decision 2014/512/CFSP were to be regarded as relevant, a case-by-case examination would still have to be carried out for the documents I have requested in order to determine whether the ‘presumption of confidentiality’ is actually relevant for each individual document. Any other approach would constitute a disproportionate restriction of my rights under Article 42 of the Charter of Fundamental Rights, Article 15(3) TFEU and Article 13 of the Charter of Fundamental Rights.

¹ Emphasis added.

For without access to the document in question, an applicant cannot him/herself show that a presumption of confidentiality is not relevant in the specific case. For that reason, the Council must demonstrate in each individual case that the presumption of confidentiality is, in fact, relevant and must then grant at least partial access to documents in respect of which the presumption does not apply. If no case-by-case examination were carried out and not even partial access to the documents granted, non-confidential parts of the documents would also remain inaccessible. This would already exceed the necessary level of confidentiality and thus constitute an infringement of Article 52(1) of the Charter of Fundamental Rights. Since a blanket and indiscriminate rejection of an application without a case-by-case examination would render null and void the fundamental rights under Articles 42 and 13 of the Charter of Fundamental Rights and Article 15(3) TFEU, the Council's approach in such an event would be disproportionate.

This is also demonstrated by the fact that, in response to a request to that effect on my part, the EEAS carried out such an examination and produced documents which could fall under Article 8b, second subparagraph, of Decision 2014/512/CFSP. The outcome of the EEAS's examination of the specific documents was, however, that the requested documents can be disclosed (see **Annex**). In view of the fundamental right to good public administration under Article 41 of the Charter of Fundamental Rights, the Council cannot be expected to take a different approach.

In summary, my confirmatory application must therefore be approved and the documents I have requested made available pursuant to Article 2(1) of Regulation (EC) No 1049/2001. I therefore request a review of your position of 10 November 2025.

(Complimentary close)

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