



European Council

Brussels, 8 December 2023  
(OR. en)

EUCO 18/23

LIMITE

CO EUR 14  
INF 213  
API 157

**NOTE**

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From:	President of the European Council
To:	European Council
No. prev. doc.:	13114/23; 13116/23; 13183/23
Subject:	Public access to documents - Confirmatory application No 33/c/01/23

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Delegations will find in the Annex a draft reply to confirmatory application No 33/c/01/23, which was unanimously endorsed by the Working Party on Information following a written consultation on 6 December 2023.

It is suggested that the European Council by written procedure:

- a) approve the draft reply contained in the annex to this Note and
- b) decide to make public the results of the vote, as well as any statements made.

**REPLY TO CONFIRMATORY APPLICATION 33/c/01/23,  
made by email on 18 September 2023 and registered on 21 September 2023**

The European Council has considered this confirmatory application under Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents<sup>1</sup> and Article 10(2) of its Rules of Procedure<sup>2</sup>, which makes Annex II to the Council's Rules of Procedure<sup>3</sup> applicable *mutatis mutandis*, and has come to the following conclusion:

1. On 18 August 2023, the Applicant filed an initial application with the European Council for access to document CM 5/23. This document informs delegations of the outcome of the written procedure launched for the adoption by the European Council of the decision to seek the consent of the European Parliament on the draft European Council Decision establishing the composition of the European Parliament. It also contains a statement made by Portugal on the composition of the European Parliament.
2. On 11 September 2023, the General Secretariat of the Council<sup>4</sup> replied to this application on behalf of the European Council, informing the Applicant that, in the absence of a decision under Article 10(1) of the European Council Rules of procedure, it was not in a position to grant access to the above-mentioned documents.

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<sup>1</sup> OJ L 145 of 31.5.2001, p. 43.

<sup>2</sup> European Council Decision No 2009/882/EU, OJ L 315, 2.12.2009, p. 51 (hereinafter the "European Council Rules of Procedure").

<sup>3</sup> Council Decision No 2009/937/EU, OJ L 325, 11.12.2009, p. 35.

<sup>4</sup> The General Secretariat of the Council, under the authority of its Secretary-General, assists the European Council and its President in accordance with Article 13(1) of the European Council Rules of Procedure.

3. On 18 September 2023, the Applicant filed a confirmatory application pursuant to Regulation (EC) No 1049/2001 against the above reply of the General Secretariat of the Council.
4. The European Council has carefully considered the confirmatory application and it has assessed the request for access in full consideration of the principles underlying Regulation (EC) No 1049/2001, including the aim of ensuring the widest possible public access to documents.
5. As a result, it was possible to determine that the content of document CM 5/23 may be disclosed fully.

## CONCLUSION

6. In light of the above, the European Council decides to grant full access to document CM 5/23.
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