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7961/25

LIMITE

API 34
INF 59

NOTE

From: General Secretariat of the Council
To: Delegations
Subject: Public access to documents - Confirmatory Application - 08/c/01/25

Delegations will find attached a draft reply to confirmatory application No 08/c/01/25
(see 7960/25).

REPLY TO CONFIRMATORY APPLICATION 08/c/01/25
made by email on 10 April 2025 and registered on the same day

The Council has considered the 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 and Annex II to the [Council's Rules of Procedure](#) and has come to the following conclusion:

1. On 8 March 2025, the applicant requested access to document **WK 10046/22** dated 8.07.2022, a Commission non-paper on a “Horizontal approach on common specifications complementary to harmonised European standards”. The request was registered by the General Secretariat of the Council (GSC) on 10 March 2025.
2. Following consultations with the Commission as the author of the requested document, the GSC replied to the applicant on 10 April 2025 and granted partial access to document WK 10046/22, redacting sections 3, 4 and 5 thereof, on the basis of the exception set out in Article 4(2)(2) of Regulation (EC) No 1049/2001 (protection of legal advice).
3. The GSC justified this decision in line with the Commission’s view that disclosing these sections would prematurely reveal legal advice, strategic considerations, and potential policy positions, thereby undermining the integrity of a forthcoming decision-making process and potentially influencing the outcome of the legislative deliberations.
4. On 10 April 2025, the applicant submitted a confirmatory application asking the Council to reconsider the GSC's position with regard to the partial disclosure of the requested document. The applicant contested the redactions of sections 3, 4 and 5 of document WK 10046/25 arguing in substance that the information in the requested document was broadly a description of publicly existing European law and therefore it cannot seriously undermine the institution's decision-making process or the protection of legal advice.
5. The Council has carefully considered this confirmatory application. It has re-assessed, in full consideration of the principle of transparency underlying Regulation (EC) No 1049/2001 and on account of the applicant's arguments, whether full public access can be provided to the requested document.

6. In doing that, the Council has to strike a balance between the need to protect the legitimate interest set out in Article 4(2), second indent, of Regulation (EC) No 1049/2001 and the public interest in the document being made fully accessible in the light of the advantages stemming, as noted in recital 2 of Regulation No 1049/2001, from increased openness, in that this enables citizens to participate more closely in the decision-making process and guarantees that the administration enjoys greater legitimacy and is more effective and more accountable to the citizen in a democratic system.¹
7. In the specific case at hand, the Council concludes that the public interest in releasing the requested document outweighs the need to preserve the interest protected under Article 4(2), second indent, of Regulation (EC) No 1049/2001.
8. The Council notes that the present decision is based on an individual analysis of the content of the requested document and the specific circumstances of the present case. It does under no circumstances constitute a precedent for the future, since each application shall be assessed and judged on its own merit, pursuant to the established practice of the Council.

CONCLUSION

9. The Council therefore concludes that full access can be granted to document WK 10046/25.

¹ See judgment of 1 July 2008, *Sweden and Turco v Council*, C 39/05 P and C 52/05 P, EU:C:2008:374, paragraph 45; judgment of 8 June 2023, C 408/21P, *Pech v. Council*, EU:C:2023:461, paragraph 40.