



Council of the
European Union

Brussels, 5 April 2024
(OR. en)

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API 49

NOTE

From:	General Secretariat of the Council
To:	Delegations
Subject:	Public access to documents - Confirmatory application No 11/c/02/24

Delegations will find attached:

- the request for access to documents sent to the General Secretariat of the Council on 27 February 2024 and registered on the same day (Annex 1);
- the reply from the General Secretariat of the Council dated 19 March 2024 (Annex 2);
- the confirmatory application dated 22 March 2024 and registered on the same day (Annex 3).

-----Original Message-----

From: **DELETED**>

Sent: Tuesday, February 27, 2024 2:32 PM

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

Subject: access to documents request - FIMI framework

Dear Council of the European Union,

Under the right of access to documents in the EU treaties, as developed in Regulation 1049/2001, I am requesting documents which contain the following information:

- A framework to measure and monitor countries' resilience and vulnerability to foreign information manipulation and interference (FIMI)/Presentation (WK 1475/24)

Yours faithfully,

DELETED



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, 19 March 2024

DELETED

E-mail: **DELETED**

Ref. 24/0703-vl/vk

Request made on: 27.02.2024

Dear **DELETED**

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

I regret to inform you that access to document **WK 1475/2024** cannot be given for the reasons set out below.

The requested document contains a presentation given at the meeting of the Horizontal Working Party on Enhancing Resilience and Countering Hybrid Threats held on 29 January 2024, focused on “A framework to measure and monitor countries’ resilience and vulnerability to foreign information manipulation and interference (FIMI)”.

Following our consultations, and given the sensitive nature of the information contained in the document, focusing on FIMI trends in Africa, the General Secretariat considers that the release of this working document to the public cannot be granted as it would allow malicious actors to use the outcome of critical research concerning regions particularly affected by destabilising hybrid

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).

campaigns and FIMI threats, to cause prejudice to public security and to the EU's efforts to facilitate building resilience in such regions. This would undermine public interest as regards public security and international relations.²

We have also looked into the possibility of releasing parts of document **WK 1475/2024**.³ However, as the information contained therein forms an inseparable whole, and the exceptions to the right of access apply to its 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(1)(a), first and third indent of Regulation (EC) No 1049/2001.

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

-----Original Message-----

From: **DELETED**

Sent: Friday, March 22, 2024 10:46 AM

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

Subject: Internal review of access to documents request - FIMI framework

Dear Council of the European Union,

Please pass this on to the person who reviews confirmatory applications.

I am filing the following confirmatory application with regards to my access to documents request 'FIMI framework', Ref. 24/0703-vl/vk.

The Council's refusal on my request appears to be based on the exceptions in Article 4, 1. (a.) for the protection of public security, as well as the protection of international relations. I contend that the reasoning for the refusal given in the initial reply is of a rather general nature and does not suffice to justify a refusal.

The General Court ruled in the *Evropaïki Dynamiki* case (T-167/10) in regard to a matter of public security that the Commission had to show how disclosure „could specifically and actually undermine that objective in a way that is reasonably foreseeable and not purely hypothetical“. In the *Steinberg* case (T-17/10), the General Court established that there was a concrete risk of disclosure as the documents might be used to exert pressure on the relevant persons, even to make threats to their physical or moral integrity. I would like to ask the Council to examine whether this high standard of the exception is met, namely that disclosure would result into an actual threat.

In *In 't Veld v Council*, the ECJ agreed with the General Court that not all internal debates could reveal strategic objectives or be exploited by negotiating partners, and in *Besselink v Council*, the General Court found that disclosing positions already known by negotiating partners, drafted before any actual negotiation took place, can also not reasonably be said to undermine the EU's international relations.

I ask the Council to examine whether it is confident that disclosure would specifically and actually undermine the protection of public security and international relations.

Yours faithfully,

DELETED
