

Brussels, 22 April 2026
(OR. en)

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API 76
INF 107

NOTE

From: General Secretariat of the Council
To: Delegations
Subject: Public access to documents - Confirmatory application N° 19/c/01/26
- Information to delegations

Delegations will find attached:

- the request for access to documents sent to the General Secretariat of the Council on 15 March 2026 and registered on 16 March 2026 (Annex 1);
- the reply from the General Secretariat of the Council dated 31 March 2026 (Annex 2);
- the confirmatory application dated 16 April 2026 and registered on 17 April 2026 (Annex 3).

From: document-request@cis.consilium.europa.eu <document-request@cis.consilium.europa.eu>
Sent: Sunday, March 15, 2026 3:01 PM
To: TRANSPARENCY Access to documents (COMM) <Access@consilium.europa.eu>
Subject: Consilium - Electronic Request for Access to documents [ENGLISH]

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 ENGLISH.

Title

DELETED

First name

DELETED

Family name

DELETED

E-mail

DELETED

Occupation

DELETED

I submit this request on my own behalf.

Name of the organisation

Full postal address

Telephone

Requested document(s)

CM 1977 2026 INIT - 14/03/2026

CM 1978 2026 INIT - 14/03/2026

1st option

FR

2nd option

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 Communication and Information – COMM

Directorate Information and Outreach

Information Services Unit / Transparency

Head of Unit

Brussels, 31 March 2026

DELETED

E-mail: **DELETED**

Ref. 26/1072

Request made on: 15.03.2026

Registered on: 16.03.2026

Dear **DELETED**,

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

Please find attached document **CM 1977/26**.

You will also find attached a partially accessible version of document CM 1978/26.² However, I regret to inform you that full access cannot be given to this document for the reasons set out below.

Document **CM 1978/26** is a communication closing the *written procedure for the adoption of Council Decision and Implementing Regulation concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine*.

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).

² Article 4(6) of Regulation (EC) No 1049/2001.

It contains information allowing to draw conclusions on the internal discussions related the two legal acts concerned. Public release of this information would weaken the international position of the European Union and thus the effectiveness of the adopted restrictive measures. Disclosure of this information would therefore undermine the protection of the public interest as regards public security and international relations.³ As a consequence, the General Secretariat has to refuse access to this information.

It should be noted that for these reasons, the document is also subject to the presumptions of confidentiality in Article 4a(2) of [Council Decision 2014/145/CFSP](#) and Article 16a(2) of [Council Regulation \(EU\) No 269/2014](#).

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

Enclosures: 2

³ Article 4(1)(a), first and third indent, of Regulation (EC) No 1049/2001.

From: **DELETED**
Sent: Thursday, April 16, 2026 5:57 PM
To: TRANSPARENCY Access to documents (COMM) <Access@consilium.europa.eu>
Cc: **DELETED**
Subject: RE: Ref. 26/1072

Dear Sir, Madame,

Please find attached a confirmatory application, based on Article 7(2) of Regulation 2001/1049, in relation to our initial request (ref. 26/1072) of 15 March 2026.

Your sincerely,

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[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Council of the European Union
General Secretariat
Directorate-General Communication and Information - COMM
Rue de la Loi/Wetstraat 175, B-1048 Brussels
Access@consilium.europa.eu

Brussels, 16 April 2026

Subject: Confirmatory application for access to documents under Regulation 1049/2001 - Decision ref 26/1072

Dear Sir, Madame,

We hereby submit confirmatory application in accordance with Article 7(2) of Regulation (EC) No 1049/2001 regarding public access to documents of the European Council¹ ('**Regulation 1049/2001**') and Council Decision of 1 December 2009 adopting the Council's Rules of Procedure² ('**Council's rules of procedure**'), requesting a review of the General Secretariat's decision of 31 March 2026 (ref. 26/1072) partially refusing access to document CM 1978/26.

This confirmatory application concerns specifically the refusal to disclose the final part of document CM 1978/26 (a part of page 2 and the whole page 3), which has been entirely redacted.

This request is made after the partial refusal of the initial request dated 15 March 2026 ('**Request**'). With the response dated 31 March 2026, ref. 26/1072

¹ 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, OJ L 145, 31.5.2001, pp. 43-48.

² Council Decision of 1 December 2009 adopting the Council's Rules of Procedure, OJ L 325, 11.12.2009, pp. 35-35.

[REDACTED]
[REDACTED]

[REDACTED]

('Decision'), the Council granted full access to document CM 1977/26 while granting only partial access to document CM 1978/26.

Document CM 1978/26 is a communication closing a written procedure for the adoption of:

- a Council Decision amending Decision 2014/145/CFSP, and
- a Council Implementing Regulation under Regulation (EU) No 269/2014

concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine, based on Decision 2014/145/PESC and Regulation 269/2014.

In detail, while pages 1 and 2 of CM 1978/26 have been partially disclosed, the second part of page 2 and the entirety of page 3 have been withheld, without any concrete identification of their content.

With the present confirmatory demand we request:

- Full disclosure of document CM 1978/26, and
- In the alternative, should the Council consider that certain parts remain covered by an exception,
 - a precise identification of the nature and type of information withheld, specifying in particular if the redacted part refers to a declaration submitted by certain Member states, and
 - a substantiated justification explaining why partial access is allegedly impossible, in accordance with Article 4(6) of Regulation 1049/2001.

REASONS FOR REVIEW

I. The decision-making process is completed

The written procedure to which document CM 1978/26 relates was closed on 14 March 2026, and the relevant decision and implementing regulation were definitively adopted on that date. As a consequence, the decision-making process is no longer ongoing. The document therefore forms part of a completed legislative procedure resulting in the adoption of legally binding acts. In such circumstances, Therefore, based on Article 4(3) of Regulation 1049/2001, the exception concerning the protection of the decision-making process, which must be interpreted strictly, cannot be invoked once the decision has been taken, unless specific and substantiated reasons are provided.

The Decision relies on Article 4(1)(a) of Regulation 1049/2001 (public security and international relations). In the Decision, the General Secretariat states in general terms that disclosure of the redacted information would make it possible to draw conclusions on internal discussions and would weaken the international position

[REDACTED]



of the European Union and the effectiveness of the adopted restrictive measures. However, no concrete, specific or individualized assessment is provided as to how the disclosure of the content of page 3 of a communication merely closing a written procedure could, at this stage, specifically and actually undermine those protected interests, given that the measures have already been adopted and entered into force.

In this respect, it should be recalled that, during the adoption of comparable restrictive-measures acts in March 2025 and September 2025, seven to eight Member States introduced a joint declaration relating to the re-examination procedure and, more generally, to the procedure for the adoption of acts renewing restrictive measures.

II. Overriding public interest in transparency and right to access documents

In fact, the Council voted for the renewal of the same restrictive measures both on 14 March 2025 (document CM 1629/1/25 REV1) and on 12 September 2025, (document CM 3947 2025 REV 1). In these occasions, the Secretariat General of the Council ('**SGC**') adopted a communication whose page 3 contained a declaration of 7 then 8 Member States raising concerns on the renewal procedure.

In addition, the last sentence of page 2 of the SGC communications introduced the Member States' declaration as the last sentence of page 2, just after the sentence confirming the adoption of the acts of renewal by the Council (*« Therefore, the above Council Decision and Council Implementing Regulation are adopted, and the letters of reply, the general template for notification letters and the notices are approved»*).

In the present case, the Decision disclosed only one page and half of document 1978/26. However, it is explicitly mentioned in this document that its non-redacted version contains a page 3 (*« DELETED FROM THIS POINT UNTIL THE END OF THE DOCUMENT (page 3) »*).

In addition, the redaction starts just after the sentence confirming the adoption of the acts of renewal by the Council (*« Therefore, the above Council Decision and Council Implementing Regulation are adopted, and the letters of reply, the general template for notification letters and the notices are approved»*).

Given these consistent analogies with the two previous SGC Communication ending written procedure for the adoption of renewals of restrictive measures, we request the Council to provide details on the content of the redacted part, should it decide that it cannot disclose it in full.

Such declarations form an integral part of the legislative context in which the acts were adopted and are essential for understanding the scope, interpretation and procedural safeguards attached to those acts.





Therefore, disclosure of that information is further supported by an overriding public interest in transparency.

The adoption of restrictive measures constitutes a matter of considerable public interest, particularly given the severe restrictions such measures impose on the fundamental rights of the individuals targeted, within the broader context of the European Union's response to international crises. Moreover, the requested documents relate to the legislative process leading to the adoption of legal binding acts.

Ensuring transparency in the reasoning and internal deliberative processes that lead to the adoption of such measures is essential to uphold democratic accountability and foster public trust. This right is fundamental to the proper functioning of transparency within the Union.

The principle of transparency ensures that the administration gains greater legitimacy, operates more effectively, and remains accountable to citizens within a democratic system. This principle is inherently connected to the principle of openness, as enshrined in the second paragraph of Article 1 and Article 10(3) of the TEU, Article 15(1) and Article 298(1) of the TFEU, and Article 42 of the Charter of Fundamental Rights of the European Union ('**Charter**').³

In this regard, the Court of Justice has consistently held⁴ that transparency, as stated in recital 2 of Regulation No 1049/2001, enhances the legitimacy, efficiency and accountability of the Union institutions towards EU citizens within a democratic system. By allowing divergent views to be openly debated, transparency also helps to build citizens' trust⁵.

To this end, Article 1 of that regulation provides that it aims to grant the public the widest possible access to documents of the Union institutions, subject to a system of exceptions based on public or private interests⁶. These exceptions, which derogate from the principle laid down in that article, must be interpreted and applied strictly⁷.

Moreover, the right of access to documents of the institutions, bodies, offices, and agencies of the Union, whatever their medium, is guaranteed by Article 15(3) TFEU and by Article 42 of the Charter, as implemented by Regulation 1049/2001.⁸

³ Judgment of 5 March 2024 (Grand Chamber), C-588/21 P, *Public.Resource.Org et Right to Know / Commission e.a.*, C-588/21 P, § 83.

⁴ Judgment of 7 September 2023, C-135/22 P, *Breyer/REA*, C:2023:640, §§ 69-70.

⁵ Judgment of 4 September 2018, *ClientEarth v Commission*, C-57/16 P, EU:C:2018:660, § 75.

⁶ Judgment of 16 July 2015, C-612/13 P, *ClientEarth v European Commission*, C:2015:486, §81; judgment of 21 July 2011, C-506/08 P, *Sweden v MyTravel and Commission*, C:2011:496, § 48, Judgment of 3 July 2014, *Council v in 't Veld*, C-350/12 P, C:2014:2039, § 48.

⁷ Judgment of 4 September 2018, *ClientEarth v Commission*, C-57/16 P, EU:C:2018:660, §§ 76 to 78.

⁸ Judgment of 5 March 2024 (Grand Chamber), C-588/21 P, *Public.Resource.Org et Right to Know / Commission e.a.*, C-588/21 P, § 66.





Finally, public access to documents such as those concerned by the Request are explicitly provided for by Council's rules of procedure.

Under Article 11(4)(b) of Annex II to the Council's rules of procedure, 'the General Secretariat may also make the following documents available to the public as soon as they have been circulated', 'provided that they are clearly not covered by any of the exceptions laid down in Article 4 of Regulation (EC) No 1049/2001':

[...]

(b) other documents, such as information notes, reports, progress reports and reports on the state of discussions in the Council or one of its preparatory bodies which do not reflect individual positions of delegations, excluding Legal Service opinions and contributions.

Under Article 11(5) of Annex II to the Council's rules of procedure⁹, "[t]he General Secretariat shall make legislative documents and the following documents available to the public, in addition to the documents referred to in paragraphs 3 and 4, as soon as they have been circulated:

(a) cover notes and copies of letters concerning legislative acts and acts referred to in Article 8(1) of the Rules of Procedure addressed to the Council by other institutions or bodies of the European Union or, subject to Article 4(5) of Regulation (EC) No 1049/2001, by a Member State;

(b) documents submitted to the Council which are listed under an item on its agenda included in the 'legislative deliberations' part or marked with the words 'public deliberation' or 'public debate' in accordance with Article 8 of the Rules of Procedure;

(c) notes submitted to Coreper and/or to the Council for approval ('I/A' and 'A' item notes) concerning draft legislative acts and acts referred to in Article 8(1) of the Rules of Procedure, as well as the draft legislative acts and acts referred to in Article 8(1) of the said Rules to which they refer;

(d) acts adopted by the Council during an ordinary or a special legislative procedure and joint texts approved by the Conciliation Committee under the ordinary legislative procedure'.

Communication CM 1978/2026 clearly falls within the categories of documents listed in article 11(4) and (5) of Annex II to the Council's rules of procedure, as it constitutes a part of the document closing the written procedure of vote by the Council.

III. Duty to reassess and provide specific justification

The Council is under a legal obligation to reassess its initial refusal in light of new circumstances, which deprived of plausibility the justification provided with the Decision. This includes providing a concrete and individualised assessment of each

⁹ Emphasis added.



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document¹⁰, demonstrating how its disclosure would specifically and actually undermine the protected interests. A blanket refusal based on general concerns is insufficient under Regulation 1049/2001 and relevant jurisprudence mentioned above.

We therefore request that the Council conduct a fresh review of the documents and provide access to those which no longer meet the criteria for non-disclosure.

In conclusion, we contend that the public interest raised cannot currently justify the partial reject of the Request without explaining the content of the redacted part. refusal of almost all documents referred to in the Request. We trust that the Council will give due consideration to this confirmatory application and uphold the principles of transparency, good administration and public access to documents, including draft legislative acts, enshrined in Articles 41 and 42 of the Charter.

We remain at disposal should further clarification be required.

Yours sincerely,

[REDACTED]

¹⁰ Judgment of 16 July 2015, C-612/13 P, *ClientEarth v European Commission*, C:2015:486, §81; judgment of 21 July 2011, C-506/08 P, *Sweden v MyTravel and Commission*, C:2011:496, § 48, Judgment of 3 July 2014, *Council v in 't Veld*, C-350/12 P, C:2014:2039, § 48.

[REDACTED]