



Council of the
European Union

Brussels, 6 May 2021
(OR. en)

8403/21

INF 120
API 65

NOTE

From: General Secretariat of the Council
To: Working Party on Information

Subject: Public access to documents
- Confirmatory application No 17/c/01/21

Delegations will find attached the:

- request for access to documents sent to the General Secretariat of the Council on 23 March 2021 and registered on the same day (Annex 1);
- reply from the General Secretariat of the Council dated 21 April 2021 (Annex 2);
- confirmatory application dated 3 May 2021 and registered on 4 May 2021 (Annex 3).

[E-mail message sent to access@consilium.europa.eu on 23 March 2021 - 12:33 using the electronic form available in the Register application]

From: **DELETED**
Sent: Tuesday, March 23, 2021 12:33 PM
To: TRANSPARENCY Access to documents (COMM) Access@consilium.europa.eu
Subject: Consilium - Electronic Request for Access to documents [FRENCH]

DELETED

Family name **DELETED**

First name **DELETED**

E-mail **DELETED**

Occupation **DELETED**

On behalf of **DELETED**

Full postal address **DELETED**

Telephone **DELETED**

Requested document(s): 7236/21



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, 21 April 2021

DELETED

Email: **DELETED**

Ref. 21/0735-rh/nb

Request made on: 23.03.2021

Deadline extension: 16.04.2021

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 **7236/21** cannot be given, for the reasons set out below.

Document **7236/21** of 25 March 2021 is a note from the Presidency to the delegations regarding 'COVID-19 Vaccine fraud: Operational response and preparedness'. It presents plans for future operational and strategic cooperation in response to an emerging criminal trend of fraud and fraud attempts with COVID-19 vaccines.

Disclosure of the sensitive information contained in that document would have a negative effect on cooperation and the strategy for combating this criminal phenomenon.

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).

Disclosure of the document would therefore undermine the protection of the public interest as regards public security. As a consequence, the General Secretariat has to refuse access to this document.²

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 your reasons.³

Yours sincerely,

Fernando FLORINDO

² Article 4(1)(a), first indent, of Regulation (EC) No 1049/2001.

³ Council documents on confirmatory applications are made available to the public. According to data protection rules at EU level (Regulation (EU) 2018/1725), if you make a confirmatory application your name will only appear in related documents if you have given your explicit consent.

[E-mail message sent to access@consilium.europa.eu on 3 May 2021 - 20:17]

From: **DELETED**

Sent: Monday, May 3, 2021 8:17 PM

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

Subject: Appel de la décision / Réf. 21/0735-rh/nb

Hello,

Pursuant to Article 8 of Regulation No 1049/2001, I would like to appeal against your negative reply to my request for access to document 7236/21 (Ref. 21/0735-rh/nb).

You refuse access to the document, stating that disclosure would undermine public security – the exception provided for in Article 4(1) of Regulation (EC) No 1049/2001.

Consistent and repeated case-law of the Court of Justice of the EU has clarified that this article can only be used if the threat in terms of public security is ‘reasonably foreseeable and not purely hypothetical’. However, your reply does not specify how this threat is ‘reasonably foreseeable’. It only refers to the possibility of ‘future cooperation’ – information which is already public, since this phrase was in the title of the document and that title appeared on the public agenda of the meeting.

I therefore appeal against your decision and request access to the document.

Thank you.

Best regards

DELETED
