

Brussels, 22 May 2026
(OR. en, it)

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NOTE

From: General Secretariat of the Council
To: Delegations
Subject: Public access to documents - Confirmatory application N° 27/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 13 March 2026 and registered on the same day (Annex 1);
- the reply from the General Secretariat of the Council dated 18 May 2026 (Annex 2);
- the confirmatory application dated 21 May and registered on 22 May 2026 (Annex 3).

From: document-request@cis.consilium.europa.eu <document-request@cis.consilium.europa.eu>
Sent: Friday, March 13, 2026 1:31 PM
To: TRANSPARENCY Access to documents (COMM) <Access@consilium.europa.eu>
Subject: Consilium - Electronic Request for Access to documents [ITALIAN]

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 ITALIAN.

Appellativo

DELETED

Nome

DELETED

Cognome

DELETED

e-mail

DELETED

Professione

Media

Presento la richiesta a mio nome.

Nome dell'organizzazione

Indirizzo postale completo

v

Telefono

Documento richiesto/documenti richiesti

Dear European Council,

In light of transparency standards set by Regulation 1049/2001, I would like to receive a copy of documents falling within this description:

- Any document, including minutes of meetings and presentations in all formats, prepared by the Council or by other governments and institutions that took part in dedicated meetings hosted or organized by the Justice and Home Affairs working party, related to the negotiations procedures for a "Draft Agreement between the European Union, on the one part, and the Government of Israel, on the other part, on the exchange of personal data between the European Union Agency for Law Enforcement Cooperation (Europol) and the authorities of Israel competent for fighting serious crime and terrorism."

The timeframe for this request is between January 1, 2022 and March 10, 2026.

Should the Council need any clarification concerning the scope of my request, I will be available for any cooperation or request.

With kind regards,

DELETED

1a opzione

EN

2a opzione

FR



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, 18 May 2026

DELETED

E-mail: **DELETED**

Ref. 26/1064

Request made on: 13.03.2026

Deadline extension: 08.04.2026

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 12569/22** cannot be given for the reasons set out below.

Document **WK 12569/22** of 26 September 2022 is a working document from European Commission services to delegations containing a *Draft Agreement between the European Union, of the one part, and the Government of the State of Israel, of the other part, on the exchange of Personal Data between the European Union Agency for Law Enforcement Cooperation (Europol) and the authorities of Israel competent for fighting serious crime and terrorism.*

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).

Having consulted the European Commission who is the originating source of this document, I have to inform you that the European Commission does not consent to any provision of access to the text. The basis for the decision made by the European Commission is the exception laid down in of Article 4(1)(a), third indent, of Regulation (EC) No 1049/2001, which provides that “the institutions shall refuse access to a document where disclosure would undermine the protection of [...] the public interest as regards [...] international relations”.

The requested document **WK 12569/22** is a preliminary draft of the envisaged international agreement. As negotiations remain unresolved, the European Commission is of the opinion that public disclosure would prejudice the European Commission’s ability to secure favourable terms, undermine the confidentiality required for constructive dialogue and risk destabilising the negotiation process, thereby compromising the EU’s broader interests.

The European Commission believes that document **WK 12569/22** is entirely covered by the exception invoked (no possibility of granting partial access) so that a wider disclosure cannot presently be granted without harming the protected interests.

As a consequence, the General Secretariat of the Council has to refuse public 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 the reasons thereof.

Please note that following our request for further clarification of 29 April 2026, Article 6(2) of Regulation (EC) No 1049/2001, and your response of 12 May 2026, we have launched consultations with responsible political services of the General Secretariat in order to identify any relating document in our possession falling within the scope of your request. You will be informed of the outcome as soon as possible.

Yours sincerely,

Fernando FLORINDO

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

From: **DELETED**

Sent: Thursday, May 21, 2026 8:33 PM

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

Subject: Confirmatory application - Case Ref. 26/1064

Dear Transparency Unit,

While thanking you for the precious work you are doing to guarantee transparency on the Council's actions and decisions, I would like to submit a request to review the decision not to disclose a document I had asked for. The original request was registered under reference number 26/1064.

I am hereby sending, in the attached file, a confirmatory application. Should you need any additional information, I will reply in the shortest possible timeframe.

With kind regards,

DELETED

Dear Transparency Unit,

I refer to your reply to my application to access Council documents, registered under number Ref. 26/1064.

On May 18, 2026, you sent me a final decision regarding my application, where you explained that the requested document, WK 12569/22, cannot be given under transparency exceptions referred to the protection of international relations, as outlined in Article 4(1)(a), third indent, of Regulation (EC) No 1049/2001.

In line with Article 7(2) of Regulation (EC) No 1049/2001, I would like to invite the Council to reconsider its position.

I would like in particular to provide some elements that, according to my interpretation, point at the need to offer broader access to the document I asked for.

General considerations

According to EU case-law, an institution is required to adopt a broad interpretation of the right of access and a narrow interpretation of the exceptions to that right of access. More specifically:

- in view of the objectives pursued by Regulation No 1049/2001, exceptions must be interpreted and applied strictly (see Case C-64/05 P Sweden v Commission and Others [2007] ECR I-0000, paragraph 66);
- the risk of that interest being undermined must, in order to be capable of being relied on, be reasonably foreseeable and not purely hypothetical; it is not sufficient for an institution to state that the documents simply concern a particular interest. Rather, the institution must show that it is reasonably foreseeable that disclosing the document(s) would undermine one or more of these interests (Case T-2/03 Verein für Konsumenteninformation v Commission).

The Council is - in this case - ultimately responsible for compliance with Regulation 1049/2001 and associated case law. Indeed, there is no clear evidence in your reply that disclosure of the documents would specifically, effectively and in a non-hypothetical manner seriously undermine the interests represented in Article 4(1)(a), third indent (protection of the international relations) and Article 4(1)(a) of Regulation (EC) 1049/2001, on the protection of international relations.

The arguments put forward by the Council in its decision not to grant access, are presented in an extremely broad manner, without indicating - as required by EU case law, - that disclosing this document would pose an actual and specific risk that is "reasonably foreseeable" and not hypothetical to the protection of international relations.

1. Objections to the application of the exception concerning the protection of public interest as regards international relations outlined in Article 4(1)(a), third indent, of Regulation (EC) No 1049/2001.

My request, submitted on March 13, 2026, concerned document Document WK 12569/22 of 26 September 2022, which is "a working document from European Commission services to delegations containing a Draft Agreement between the European Union, of the one part, and the Government of the State of Israel, of the other part, on the exchange of Personal Data between the European Union Agency for Law Enforcement Cooperation (Europol) and the authorities of Israel competent for fighting serious crime and terrorism" (From now on, the Europol-Israel Agreement).

On 4 June 2018 the Council adopted a decision authorising the Commission to open negotiations with the State of Israel for an agreement between the European Union and the State of Israel on the exchange of personal data between the European Union Agency for Law Enforcement Cooperation (Europol) and the Israeli competent authorities for fighting serious crime and terrorism. According to the negotiating directives annexed to the Council Decision authorising the Commission to open negotiations, "*The agreement is intended to provide a legal basis for the transfer of personal data between Europol and the competent authorities of Israel respectively, in order to support and strengthen their actions and their mutual cooperation in preventing and combatting serious transnational crime and terrorism, while ensuring appropriate safeguards with respect to the protection of privacy, personal data and fundamental rights and freedoms of individuals.*"

The Council decided not to disclose this Document, under the motivation that "public disclosure would prejudice the European Commission's ability to secure favourable terms, undermine the confidentiality required for constructive dialogue and risk destabilising the negotiation process, thereby compromising the EU's broader interests."

The argument presented relies more on the reported position of the originator of the document, which is the European Commission, than on the Council's own assessment of the risks connected with disclosing the document. Should the Council decide non to grant access to the document, integrally or partially, I would therefore ask to provide a specific reasoning where concrete risks to the protection of international relations are detailed.

Moreover, while the confidentiality requirements arising from the negotiation of an international, legally binding agreement, are adamant, I would like to ask the Council in which way it believes that disclosing a draft document, produced about three years and a half before my application was lodged, would concretely lead to a destabilization of the negotiation process. Given the standardized nature of such agreements, which are usually based on specific structures that have been applied for other similar data exchange agreements between Europol and third countries, I find it difficult to foresee what type of harm can be associated with releasing such a document.

Furthermore, public information published by the media, have pointed at the fact that the negotiations around the agreement had been suspended in late 2022, citing a judicial reform that had taken place in Israel ([Haaretz, December 6, 2022](#)).

If the information provided by the above-mentioned media article is correct, than the applicant would imagine that the growing state of violence following the October 7, 2023 attack on Israel, would also play a role in the negotiations over the Europol-Israel

Agreement.

2. Overriding public interest

When assessing this confirmatory request, I would like in particular the Council to consider the clear and overriding public interest linked with the disclosure of information pertaining to a very sensitive policy area, which has been at the center of public debate for the past two years and a half, and refers to relations between European Union institutions and the State of Israel. The sensitive nature of this policy area is amplified, in the case of this document and other documents pertaining to this file, by the fact that the agreement being discussed refers to the transfer of personal data of European Union's citizens to a Government which has been accused by international courts of committing crime against humanity, amounting to genocide, and of repeatedly violating international humanitarian law, in the context of its operations against militant groups in Gaza and the Occupied Territories.

The role of internal security agencies, including in the area of counter terrorism, in actions that amount at torture, systematic discrimination, solitary confinement, and extrajudicial killing, has been denounced by several reports by UN agencies, and international NGOs. I would like to mention here a [report issued in May 2026](#) by the UN Commissioner for Human Rights, on "practices and policies affecting human rights in the Occupied Palestinian Territory, including East Jerusalem – 7 October 2023 – 31 May 2025."

The report states for example that that, since October 7, 2023, "*Palestinian detainees [in Israeli detention] had been subjected to widespread and systematic torture and other ill-treatment while in detention. Reported treatment included brutal beatings, prolonged solitary confinement, waterboarding, suspension from the ceiling and other stress positions, and the use of rape and other sexual and gender-based violence against detainees, with a disproportional impact on men, as means of collective punishment.*"

While the argument expressed in article 4(1)(a) of Regulation 1049/2001, referring to the protection of international relations allows for a certain level of discretion, and is not technically bound to the so-called "public interest test", I believe that there exists a strong interest by the European public, and European citizens, to obtain transparent information on the EU's relation with the Government of Israel, particularly in an area such as the fight against terrorism, given for example that several Palestinian civil society organisations that cultivated relations with European governments and civil society, have been [labelled as terrorists organizations](#) by the Government of Israel, back in 2021, and that recent legislative development introduced [provisions to use the death penalty](#) in Israel for people accused of terrorism.

Final remarks

In light of the above, I request the Council to reconsider its position and disclose, or partially disclose, the documents identified within the 15-day period set down in Regulation 1049/2001.

I would also like to remind the Council of its obligation under EU case law (case T-188/98, paragraph 46) to review each argument put forward by the applicant and address them individually. In accordance with the right to privacy and protection of personal data, I

expect my application to be dealt with confidentiality, particularly in any communication with third parties.

I will be glad to provide the competent offices with any further information which is needed to complete this procedure.

Best regards,


