



Council of the European Union
General Secretariat

Directorate-General Communication and Information - COMM
Directorate Information and Outreach
Director

Brussels, 3 September 2019

Mr Arne Semsrott

Email: [REDACTED]

Ref. 19/1695-rh/ns

Request made on: 21.07.2019
Registered on: 22.07.2019
Deadline extension: 03.09.2019

Dear Mr Semsrott,

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

Please find attached the list of documents that we have identified as related to your request:

CM 3167/19 INIT

CM 3167/19 REV1

CM 3168/19 INIT

CM 3168/1/19 REV1

ST 10254/19 INIT

ST 10869/19 INIT

ST 10869/19 REV 1

WK 8154/19 INIT

CM 2992/19 INIT

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).

ST 9796/19 INIT
ST 9797/19 INIT
WK 6887/19 INIT
WK 6959/19 INIT
CM 1966/19 INIT
ST 6959/19 INIT
ST 7289/19 INIT
CM 1463/19 INIT
ST 5828/19 INIT
CM 5813/18 INIT
ST 15649/18 INIT
WK 6959/19 INIT
WK 8154/19 INIT

Please find attached documents **CM 3167/19 INIT**, **CM 3167/19 REV1**, **CM 3168/19 INIT**, **CM 3168/1/19 REV1**, **ST 10254/19 INIT**, **CM 2992/19 INIT**, **ST 9796/19 INIT**, **ST 9797/19 INIT**, **CM 1966/19 INIT**, **CM 1463/19 INIT** and **CM 5813/18 INIT**.

Please also find attached a partially accessible version of document **WK 6887/19 INIT**.² However, I regret to inform you that full access cannot be given for the reasons set out below.

Document **WK 6887/19 INIT** of 9 June 2019 is a working document from the General Secretariat of the Council to Delegations - *Presentation of the incoming Finnish Presidency priorities and calendar*. It contains personal data about identified persons. The personal data contained in this document is necessary for the organisation of the work of the Council.

The data protection rules at EU level³ provide that when the personal data collected is to be used for a different purpose, including disclosure to the public, a balance needs to be established between the public interest in having access to such data and the legitimate right of individuals to protect their personal data.⁴

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

3 Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ L 8, 12.1.2001, p. 1).

4 Article 8 of Regulation (EC) No 45/2001.

After carefully considering all the principles related to this request, on balance the General Secretariat has concluded that disclosure of the personal data contained in the document would undermine the protection of privacy and the integrity of the identified individuals. As a consequence, the General Secretariat has to refuse access to this document.⁵

I regret to inform you that access to documents **ST 15649/18 INIT**, **ST 5828/19 INIT** and **ST 6959/19 INIT** cannot be given for the reasons set out below. Documents **ST 15649/18 INIT**, **ST 5828/19 INIT** and **ST 6959/19 INIT** of 20 December 2018, 30 January and 5 March 2019 are notes from the Presidency to Delegations on the *Proposal for a Directive of the European Parliament and of the Council on common standards and procedures in Member States for returning illegally staying third-country nationals (recast) - Revised Presidency compromise text*.

These documents concern issues which are still under discussion within the preparatory bodies of the Council. They give details of progress made, contain drafting suggestions prepared by the Presidency and identify the difficulties that still need to be addressed before the Council can reach a political agreement.

Release to the public of the information contained in the documents would affect the negotiating process and diminish the chances of the Council reaching an agreement.

Disclosure of the documents at this stage would therefore seriously undermine the decision making-process of the Council. As a consequence, the General secretariat has to refuse access to the documents at this stage.⁶

Having examined the context in which the documents were drafted and the current state of play, on balance the General Secretariat of the Council could not identify any evidence suggesting an overriding public interest in their disclosure.

We have also looked into the possibility of releasing parts of the documents.⁷ However, as the information contained in each of the documents forms an inseparable whole, the General Secretariat is unable to give partial access at this stage.

5 Article 4(1)(b) of Regulation (EC) No 1049/2001.

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

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

I would also like to inform you that once the legislative act in question is adopted, and taking into account the provisions of Regulation 1049/2001, the documents and any other legislative document relating to this legislative act will be made available to the public.

I also regret to inform you that access to documents **ST 7289/19 INIT**, **ST 10869/19 INIT** and **ST 10869/19 REV 1** cannot be given for the reasons set out below.

Document **ST 7289/19 INIT** of 7 March 2019 is a note from Commission services to Delegations on the *Readmission strategy with Somalia - way forward*. Document **ST 10869/19 INIT** of 2 July 2019 is a note from Commission services to Delegations on the *Draft EU-Morocco readmission agreement*. Document **ST 10869/19 REV 1** of 10 July 2019 is another note from the Commission services to Delegations containing a *Draft template for the EU readmission agreements*.

These are very sensitive issues of which the release would reveal to other negotiating partners the EU mandate which would weaken its negotiation position, complicate further developments and even compromise further similar agreements as well as current and ongoing readmission cooperation.

The guarantee of confidentiality is key for the success of this complex exercise, which aims to secure both the interests and values of the EU.

Disclosure of the documents would therefore undermine the protection of the public interest as regards international relations. As a consequence, the General Secretariat has to refuse access to documents **ST 7289/19 INIT**, **ST 10869/19 INIT** and **ST 10869/19 REV 1**⁸.

We have also looked into the possibility of releasing parts of the documents.⁹ However, as the information contained in each of the documents forms an inseparable whole, the General Secretariat is also unable to give partial access to it.

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

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

You can ask the Council to review this decision within 15 working days of receiving this reply (confirmatory application).¹⁰

Please note that documents **WK 6959/19 INIT** and **WK 8154/19 INIT** that we have identified involve presentations from FRONTEX, the European Commission and a number of EU Member States. We are contacting the authors of the presentations and asking them to signal whether full or partial access to their contributions can be granted. Since these consultations haven't been finalized yet, you will be informed about the outcome as soon as possible.

Please be sure that this reply will be sent to you in German language as soon as its translation is ready.

Yours sincerely,

Inga ROSINSKA

Enclosures

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Article 7(2) of Regulation (EC) No 1049/2001.

Council documents on confirmatory applications are made available to the public. Pursuant to data protection rules at EU level (Regulation (EU) No 2018/1725, if you make a confirmatory application your name will only appear in related documents if you have given your explicit consent.