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|  | Brussels, 29 January2021 |
| Mr Peter TefferEmail: ask+request-8804-e1d7a702@asktheeu.org |
| Ref: Your confirmatory application 01/c/01/21 |
| Dear Mr. Teffer, |

Thank you for your message of yesterday regarding the extension by 15 working days of the time limit to reply to your confirmatory application in accordance with Article 8(2) of Regulation 1049/2001.

You are questioning the use of Article 8(2) of Regulation 1049/2001 as a reason allowing the Council to extend the deadline for reply to your confirmatory application. You are claiming that this provision can only be used in exceptional cases, that the scheduling of Council meetings is not such an exceptional case and it does not give the Council the right to dismiss the regulatory deadlines.

I would like to inform you of the procedure applied for the reply to a confirmatory application within the Council. I believe this will help you understand better why the Council had to postpone its reply in the present case.

Pursuant to Article 8 of Annex II to the Council's Rules of Procedure (CRP), confirmatory applications are decided upon by the Council. This means that the normal three-stage procedure for the preparation and approval of a Council decision – Working party → Coreper → Council – applies.

In practice, the General Secretariat of the Council (GSC) carries out fresh internal – and where necessary external – consultations in order to re-assess the possibilities for full or partial release of the requested documents, taking into account the applicant's arguments. Upon completion of these consultations, the GSC prepares a note for the Working Party on Information, setting out a draft reply to the confirmatory application. This note is then put on the agenda of a meeting of the Working Party on Information, if the meeting calendar and the deadline for reply so allow. If not, a written consultation of the Working Party is launched. Once the draft reply has been approved at the level of the Working Party, it has then to be submitted for approval to Coreper and the Council.

In some cases the legal deadline does not allow for the point to be submitted to a scheduled Council meeting. In such cases the formal approval by the Council of the draft replies is done by using the ordinary written procedure pursuant to article 12(1) of the CRP. According to this article~~,~~ the ordinary written procedure can be used to adopt acts of the Council on an urgent matter, where the Council or Coreper unanimously decides to use that procedure.

In the current exceptional circumstances caused by the COVID-19 crisis, in particular the difficulties throughout Europe to travel given preventive and containment measures taken by Member States, as well as obligations of physical distancing, the Council needed to adapt its functioning and decision-making process during this crisis in order to ensure institutional continuity. This include a temporary derogation from Council's Rules of Procedure in order to make it easier to use the ordinary written procedure, the organisation of informal videoconferences of ministers and informal videoconferences of the members of the working parties instead of physical meetings. This results in less frequent meetings of all preparatory bodies and of Council itself.

It is in this particular context that your confirmatory application is being handled. This explains why, considering the timetable for meetings of the various Council bodies involved in the examination of your application, the decision by the Council can only be taken during the second half of February 2021. I can confirm that you will receive a reply to your confirmatory application by 17 February 2021 at the latest.

Finally, I would like to draw your attention to the fact that art. 8(2) of Regulation 1049/2001 points to an "*application relating to a very long document or to a very large number of documents*" only as an example of exceptional cases where time-limit provided for in art. 8(1) may be extended. The provision in question is indicative, not limitative. This is why the Council, in the current exceptional circumstances as explained above, decided to extend the time-limit for replying to your confirmatory application.

Yours sincerely,

Fernando FLORINDO