



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, 10 September 2021

Mr Davide Giovannelli

Email: Davide Giovannelli <ask+request-9869-f9c178cf@asktheeu.org>

Ref. 21/1435-rh/mf

Request made on: 20.08.2021

Dear Mr Giovannelli,

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 documents **7677/20 INIT, REV 1 and REV 2** cannot be given for the reasons set out below.

Documents **7677/20 INIT** of 30 April 2020, **REV 1** of 6 May 2020 and **REV 2** of 11 May 2020 are notes from the European External Action Service and Commission Services to delegations on *Draft Common Position of the EU and its Member States as regards the open-ended ad-hoc intergovernmental committee of experts to elaborate a comprehensive international convention on countering the use of information and communications technologies for criminal purposes*.

The disclosure of the sensitive information contained in these documents would harm the EU ability to negotiate effectively as it would provide indications regarding specific points where the EU position is more fragile, hence providing indications to counterparts where to exploit possible weaknesses in the ongoing and future international negotiations.

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).

Therefore, having consulted with the originating sources of the documents, the General Secretariat is of the opinion that the disclosure of the documents would undermine the protection of the public interest as regards international relations. As a consequence, the General Secretariat has to refuse access for this reason.²

Having examined the context in which the documents were drafted, on balance the General Secretariat 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.³ However, as the exception to the right of access applies to their entire content, the General Secretariat is unable to give partial access.

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.⁴

Yours sincerely,

Fernando FLORINDO

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

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

⁴ 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.