



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, 13 August 2021

Ms Vicky Cann
Email: ask+request-9772-f5cd87a5@asktheeu.org

Ref. 21/1338-em/mf

Request made on: 15.07.2021
Deadline extension: 06.08.2021

Dear Ms Cann,

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

We have identified documents **CM 5010/1/20** and **WK 14098/21** as corresponding to your request. You will find attached document CM 5010/1/20.

Please find attached a partially accessible version of document **WK 14098/20**.² However, I regret to inform you that full access cannot be given for the reasons set out below.

Document WK 14098/20 is a working document dated 3 December 2020 intended for the meeting of the working party on Competitiveness and Growth (Internal Market) on the same date. The document contains a Power-Point presentation originating from the Commission services on "Investment Protection and Facilitation Framework".

The document being a third party document, the General Secretariat of the Council consulted the relevant Commission services on the possible disclosure of the presentation in accordance with article 4(4) of Regulation 1049/2001.

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).

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

The Commission services informed us that the document was drawn up for internal use of the institutions. The analysis of the policy options referred to in the presentation is still ongoing and the Commission has made no decision on them yet. Full disclosure of the document at this stage would seriously undermine the institution's decision-making process. Therefore, the General Secretariat of the Council has to refuse access to certain parts of the document.³

Moreover, the document contains personal data of an identified person. The data protection rules at EU level⁴ 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.

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 individual.⁵

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.⁶

Yours sincerely,

Fernando FLORINDO

Enclosures

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

⁴ Regulation (EU) No 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data (OJ L 295 21.11.2018, p. 39).

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

⁶ 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.