



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, 17 July 2023

Ms Joana Triana
Email: ask+request-13072-644288ff@asktheeu.org

Ref. 23/1702-mj/nb

Request made on: 05.06.2023
Deadline extension: 26.06.2023

Dear Ms Triana,

Thank you for your request for access to *“All working papers and other documents containing positions, comments and text proposals of Member States on Directive of the European Parliament and of the Council on Regulation of the European Parliament and of the Council laying down harmonised rules on artificial intelligence (artificial intelligence ACT) from April 23, 2021 (when the European Commission launched its proposal) until the Council reached its General Approach on December 6, 2022”*.¹

The following documents were identified as corresponding to your request:

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|---------------------|----------------------------|---------------------------|
| WK 14040 2022 REV 1 | WK 13426 2022 INIT | WK 13265 2022 INIT |
| WK 14040 2022 INIT | WK 13423 2022 INIT | WK 13264 2022 INIT |
| WK 13640 2022 INIT | WK 13389 2022 INIT | WK 13263 2022 INIT |
| WK 13628 2022 INIT | WK 13381 2022 INIT | WK 13260 2022 INIT |
| WK 13620 2022 INIT | WK 13380 2022 INIT | WK 13259 2022 INIT |
| WK 13551 2022 INIT | WK 13265 2022 REV 1 | WK 13258 2022 INIT |
| WK 13544 2022 INIT | WK 13372 2022 INIT | WK 13257 2022 INIT |
| WK 13518 2022 INIT | WK 13371 2022 INIT | WK 13238 2022 INIT |
| WK 13503 2022 INIT | WK 13354 2022 INIT | WK 13237 2022 INIT |
| WK 13464 2022 INIT | WK 13351 2022 INIT | WK 13236 2022 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).

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| <p> WK 13233 2022 INIT WK 13232 2022 INIT WK 13231 2022 INIT WK 13230 2022 INIT WK 13228 2022 INIT WK 13226 2022 INIT WK 12904 2022 INIT WK 12308 2022 INIT WK 12224 2022 INIT WK 11910 2022 INIT WK 11852 2022 INIT WK 11852 2022 ADD 1 WK 11851 2022 INIT WK 11792 2022 REV 1 WK 11792 2022 INIT WK 11769 2022 INIT WK 11734 2022 INIT WK 11564 2022 INIT WK 11546 2022 INIT WK 11523 2022 INIT WK 11513 2022 INIT WK 11481 2022 INIT WK 11475 2022 INIT WK 11473 2022 INIT WK 11471 2022 INIT WK 11419 2022 INIT WK 11412 2022 INIT WK 11410 2022 INIT WK 11401 2022 INIT WK 11383 2022 REV 1 WK 11383 2022 INIT WK 10261 2022 INIT WK 10003 2022 INIT WK 9788 2022 INIT WK 8862 2022 INIT WK 7733 2022 INIT WK 6608 2022 INIT </p> | <p> WK 6191 2022 INIT WK 6104 2022 INIT WK 5830 2022 INIT WK 5702 2022 INIT WK 5594 2022 INIT WK 5493 2022 INIT WK 5479 2022 INIT WK 5462 2022 INIT WK 5455 2022 INIT WK 5454 2022 INIT WK 5442 2022 INIT WK 5441 2022 INIT WK 5440 2022 REV 1 WK 5440 2022 INIT WK 5436 2022 INIT WK 5430 2022 INIT WK 5423 2022 INIT WK 5421 2022 INIT WK 5410 2022 INIT WK 3209 2022 INIT WK 868 2022 INIT WK 1046 2022 INIT WK 465 2022 INIT WK 419 2022 INIT WK 372 2022 INIT WK 352 2022 INIT WK 350 2022 INIT WK 257 2022 INIT WK 255 2022 INIT WK 251 2022 INIT WK 242 2022 INIT WK 224 2022 INIT WK 221 2022 INIT WK 213 2022 INIT WK 202 2022 INIT WK 192 2022 INIT WK 190 2022 INIT </p> | <p> WK 132 2022 INIT WK 130 2022 INIT WK 128 2022 INIT WK 124 2022 INIT WK 15346 2021 INIT WK 14638 2021 INIT WK 14182 2021 INIT WK 14062 2021 INIT WK 14060 2021 INIT WK 13239 2021 ADD 1 WK 13457 2021 INIT WK 13455 2021 INIT WK 13348 2021 INIT WK 13298 2021 INIT WK 13182 2021 REV1 WK 13269 2021 INIT WK 13239 2021 INIT WK 13199 2021 INIT WK 13197 2021 INIT WK 13196 2021 INIT WK 13195 2021 INIT WK 13194 2021 INIT WK 13191 2021 INIT WK 13185 2021 INIT WK 13184 2021 INIT WK 13182 2021 INIT WK 13178 2021 INIT WK 13177 2021 INIT WK 13176 2021 INIT WK 13173 2021 INIT WK 11168 2021 INIT WK 10581 2021 INIT WK 10567 2021 INIT WK 9717 2020 INIT </p> |
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You may have a full access to the abovementioned documents with the exception of the ones which are in bold. You will find them attached (*121 documents*).

You may also have access to document WK 14638/2021 INIT in which the parts containing personal data have been redacted in accordance with Article 4(1)(b) of Regulation (EC) No 1049/2001 and European legislation regarding the protection of personal data.²

Please find also attached partially accessible versions of documents WK 13239/2021 INIT, WK 13239/2021 ADD 1, WK 14060/2021 INIT and WK 14062/2021 INIT.³ However, I regret to inform you that full access cannot be given for the reasons set out below.

WK 13239/2021 INIT is a working document of 11 November 2021 from the General Secretariat of the Council to the Working Party on Telecommunications and Information Society on Artificial Intelligence Act. This document contains FR comments on Articles 1-29, Annexes I-IV (doc. 8115/21).

WK 13239/2021 ADD 1 is a working document of 11 November 2021 from the General Secretariat of the Council to the Working Party on Telecommunications and Information Society on Artificial Intelligence Act. This document contains additional FR comments on Articles 1-29, Annexes I-IV (doc. 8115/21).

WK 14060/2021 and WK 14062/2021 are working documents of 18 November 2021 from the General Secretariat of the Council to the Working Party on Telecommunications and Information Society on the Artificial Intelligence Act. These documents contain a consolidated table of comments from PT, PL, BG, SK, CZ, IT, MT, LV, AT, EE, DK, NL, BE, ES, FR, SE, FI and from HU, IE and FR (Additional) on Articles 1-29, Annexes I-IV (doc. 8115/21).

These documents contain information on techniques and technologies used or which can be used to identify and prevent risks and threats that some Member States face or might face in the near future. Disclosure of this information would specifically and effectively undermine the protection of public security of those Member States and of the European Union.

Full disclosure of the documents would therefore undermine the protection of the public interest as regards public security. As a consequence, the General Secretariat is not able to grant a full access to the requested documents⁴.

However, as abovementioned, pursuant to Article 4(6) of the Regulation, you may have access to the other parts of the documents which are not covered by this exception.

² Regulation (EU) 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).

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

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

I regret to inform you that access to the following WK documents cannot be given for the reasons set out below.

Document WK 13199/2021 INIT is a working document of 3 November 2021, document WK 242/2022 INIT is a working document of 10 January 2022, document WK 5441/2022 is a working document of 12 April 2022, documents WK 11383/2022 INIT and WK 11383/2022 REV 1 are working documents of 2 September 2022 and documents WK 13265/2022 INIT and WK 13265/2022 REV 1 are working documents of 4 and 6 October 2022 from the General Secretariat of the Council to the Working Party on Telecommunications and Information Society which contain IT comments on the Artificial Intelligence Act.

Document WK 192/2022 is a working document of 7 January 2022, document WK 5421/2022 is a working document of 11 April 2022, documents WK 11471/2022 INIT, WK 13228/2022 INIT and WK 13380/2022 INIT are working documents of 5 September 2022, 4 and 6 October 2022 from the General Secretariat of the Council to the Working Party on Telecommunications and Information Society which contain BG comments on the Artificial Intelligence Act.

These documents concern an issue which is still under discussion within the preparatory bodies of the Council and at interinstitutional level.

The working documents contain preliminary positions of the MS concerned the disclosure of which could directly jeopardise the progress of the negotiations and would therefore diminish the chances of the institutions reaching an agreement.

Disclosure of these documents at this stage would therefore seriously undermine the decision-making process of the institutions.

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

As a consequence, the General Secretariat has to refuse access to the documents at this stage.⁵

We have also looked into the possibility of releasing parts of the documents.⁶ 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.

I would also like to inform you that once the legislative act in question is adopted, these documents and any other legislative documents relating to this act will be made available to the public.⁷

⁵ Article 4(3), first subparagraph, of Regulation (EC) No 1049/2001.

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

⁷ Pursuant to Article 11(6) of Annex II to the Council Rules of Procedure (Council Decision No 2009/937/EU, OJ L 325, 11.12.2009, p. 35) and unless their content is covered by Article 4(1), (2) or (3), second subparagraph, of Regulation (EC) No 1049/2001.

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.

Yours sincerely,

Fernando FLORINDO

Enclosures: 126 – WeTransfer link to download the documents: <https://we.tl/t-BtLWzbCcDD>