



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, 15 March 2022

Ms Vanja Skoric

Email: ask+request-10645-aacd9051@asktheeu.org

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1st reply sent on: 08.03.2022

Dear Ms Skoric,

Further to the letter sent to you on 8 March 2022 concerning your request for access to “*All working papers and other documents containing positions, comments and text proposals of member states on the Proposal for a Regulation of the European Parliament and of the Council laying down harmonised rules on artificial intelligence (Artificial Intelligence Act) and amending certain union legislative acts COM/2021/206 final, until the January 25 2022*”¹, the General Secretariat has finished the examination of the remaining documents and has come to the following conclusion:

You may have full access to documents **WK 13177/2021, WK 13455/2021, WK 130/2022** and **WK 868/2022**.

Please find also attached a partially accessible version of document WK 13239/2021 INIT.² However, I regret to inform you that full access cannot be given for the reasons set out below.

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.

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).

This document contains 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 document 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 document³.

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

I regret to inform you that access to documents **WK 13199/2021**, **WK 15346/2021**, **WK 128/2022**, **WK 192/2022** and **WK 242/2022** cannot be given for the reasons set out below.

Document **WK 13199/2021** is a Working Document of 3 November 2021 from the General Secretariat of the Council to the Working Party on Telecommunications and Information Society which contains IT comments on the Artificial Intelligence Act.

Document **WK 15346/2021** is a Working Document of 13 December 2021 from the General Secretariat of the Council to the Working Party on Telecommunications and Information Society which contains a Slovakia's non-paper in relation to Governance model under Artificial Intelligence Act - European System of AI (Digital) Supervision.

Documents **WK 128/2022**, **WK 192/2022** and **WK 242/2022** are Working Documents of 7, 8 & 10 January 2022 from the General Secretariat of the Council to the Working Party on Telecommunications and Information Society which contain SK, BG and IT comments on the Artificial Intelligence Act.

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

The Working Documents contain preliminary positions the disclosure of which could directly and immediately jeopardise the progress of the negotiations and would therefore diminish the chances of the Council reaching an agreement.

³ Article 4(1)(a), first indent, of Regulation (EC) No 1049/2001.

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

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.⁴

We have also looked into the possibility of releasing parts of the documents.⁵ 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.⁶

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: 5

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

⁵ Article 4(6) of Regulation (EC) No 1049/2001.

⁶ 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.