



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 18 July 2008

11973/08

**INF 157
API 43
JUR 300**

"I/A" ITEM NOTE

from : Working party on Information

to : Coreper (2nd part)/Council

No. prev. doc.: 11622/08

Subject : Public access to documents

- New reply to the confirmatory application made by Mr Maurizio TURCO (1/02) following the judgment of the Court of Justice (Grand Chamber) in Joined Cases C-39/05 P and C-52/05 P

Delegations will find enclosed a draft reply from the Council, as it stands after examination by the Working Party on Information at its meeting on 17 July 2008, to the confirmatory application made by Mr Maurizio TURCO for access to documents (1/02).

The Permanent Representatives Committee is accordingly asked to suggest that the Council, at its next meeting, record its agreement on the draft reply annexed to this document, as an "A" item.

The Annex is available in English only.

DRAFT
REPLY ADOPTED BY THE COUNCIL ON
TO CONFIRMATORY APPLICATION BY MR MAURIZIO TURCO (1/02)
- made to the Council by e-mail dated 22 October 2002,
pursuant to Article 7(2) of Regulation (EC) No 1049/2001,
as regards public access to document 9077/02

Following the judgement of the Court of 1 July 2008 in Joined Cases C-39/05 P and C-52/05 P, the Council has reconsidered your application under Regulation (EC) No 1049/2001 (OJ L 145 of 31.5.2001, p. 43) and Annex II to the Council's Rules of Procedure (Council Decision 2006/683/EC, Euratom - OJ L 285 of 16.10.2006, p. 47), and it has come to the following conclusion:

- 1) Document 9077/02 is an opinion of the Council Legal Service on a proposal for a Council Directive laying down minimum standards for the reception of applicant for asylum in Member States. It contains advice on the legal basis with regard to the provisions on access to employment.
- 2) The Council has re-examined the abovementioned document in the light of the judgment of the Court of 1 July 2008. It concluded that, in the absence of any indication that the requested legal service opinion would be particularly sensitive in nature or would have a particularly wide scope going beyond the context of the legislative process, the document is not covered by the exception under the second indent of Article 4(2). Consequently, and since the requested document does not fall under any other exception under Regulation (EC) No 1049/2001 either, the Council decided to give a positive answer to your request for access to document 9077/02.