



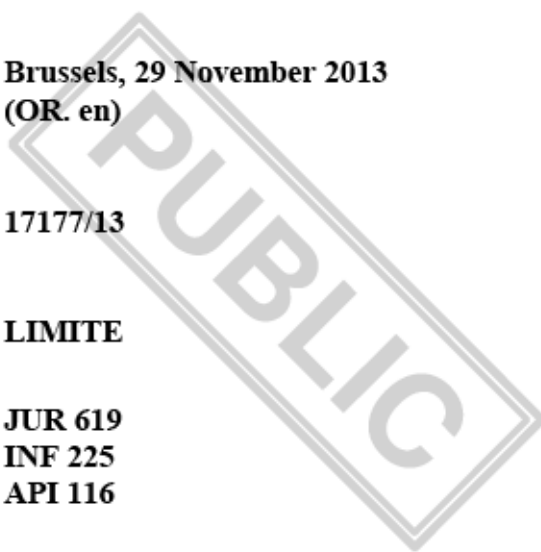
**COUNCIL OF
THE EUROPEAN UNION**

**Brussels, 29 November 2013
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NOTE

From: General Secretariat of the Council
To: Permanent Representatives Committee

Subject: Public access to documents

DOCUMENT PARTIALLY ACCESSIBLE TO THE PUBLIC (23.12.2013)

1. In the light of judgment of the Court of Justice in Case C-280/11P (Access Info)¹, it is necessary for Coreper to revisit the Council's current practice as agreed by the 1954th meeting of Coreper in March 2002:

*"As regards the treatment of documents relating to legislative acts for which discussions are still on-going, which contain delegations' positions, Coreper agrees to disclose the content of such documents, including the text of footnotes and other references to delegations' positions, whilst withholding the identity of the delegations whose positions are recorded and excluding all those parts covered by the exceptions of Article 4 of the Regulation."*²

¹ Judgment of the Court of Justice (First Chamber) of 17 October 2013 in Case C-280/11 P (Council v Access Info Europe), summarised in the Information note from the Legal Service contained in document 15911/13.

² See documents 6203/22, 6898/02, p. 2, point 22, and 10425/03.

2. The above litigation concerned the application, in on-going legislative procedures, of Article 4(3), first sub-paragraph, of Regulation 1049/2001 on public access to documents. This requires access to be refused in an on-going procedure where access would seriously undermine an institution's decision-making procedure (and there is no overriding interest in disclosure). The Council had argued that the public disclosure from an early stage of the negotiating positions taken from by individually identified Member States from would deprive such delegations of the flexibility needed to ensure the effectiveness of the Council's decision-making process. The Court however held that Council had not proved that the disclosure of Member States' identities would give rise to a genuine risk of undermining the Council's decision-making procedures.

3. **DELETED**

4. **DELETED**

5. **DELETED**

6. **DELETED**

7. **DELETED**
