

Council of the European Union refuses to release legal advice - Access Info launches legal challenge

Madrid/Brussels, 24 March 2009 — Going against rulings of the European Court of Justice (ECJ) in the “Turco case”¹, the Council of the European Union has refused to release legal advice about its proposed reforms to the EU access to documents rules.

Access Info yesterday (23 March 2009) filed a legal appeal against this refusal arguing that recent decisions of the ECJ make clear that legal advice relating to the legislative process should be made public. On 1 July 2008 the European Court of Justice ruled in the Turco case that there is an “*overriding public interest*” in “*disclosure of documents containing the advice of an institution’s legal service on legal questions arising when legislative initiatives are being debated*”.

In a particularly ironic twist, the legal advice being sought by Access Info is about how the *Turco* decision would impact upon the current access to documents practice of the Council of the European Union and how it might affect the reform of the EU’s transparency rules.

“*European citizens have the right to know how European Court of Justice decisions are interpreted and, potentially, being deprived of meaning by other European institutions,*” commented Helen Darbishire, Executive Director of Access Info. “*This right is particularly strong when the ECJ decisions impact upon legislative initiatives, and even more so legislative initiatives about transparency.*”

Access Info’s legal challenge at the first administrative level (a “confirmatory application”) notes that in its 2 March 2009 letter the Council of the European Union argues that the legal advice relating to reform of the transparency rules cannot be disclosed because it “is of a particularly sensitive nature” and “analyses delicate issues” but the Council failed to provide any well-founded justification for this assertion.

In the *Turco* case the European Court of Justice reasoned that “*transparency and openness of the legislative process and strengthens the democratic right of European citizens to scrutinize the information which has formed the basis of a legislative act*”.

For more information, please contact:

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Note 1: European Court of Justice, 1 July 2008, Kingdom of Sweden and Maurizio Turco v Council of the European Union, (joined cases C-39/05 P and C-52/05 P), the “Turco case”.