NOTA PUNTO "I/A"

del: Grupo "Información"
al: Coreper (2.ª parte)/Consejo

Asunto: Acceso del público a los documentos
- Solicitud de confirmación 04/c/01/09 presentada por D. Matthew CAMPBELL

Adjunto se remite a las Delegaciones un proyecto de respuesta del Consejo a la solicitud de confirmación 04/c/01/09 presentada por D. Matthew CAMPBELL; dicho proyecto es el resultado del estudio realizado por el Grupo "Información" en su reunión del 19 de febrero de 2009.

Las Delegaciones danesa y sueca señalaron que votarían en contra del proyecto de respuesta e hicieron las siguientes declaraciones:

DK: "Dinamarca considera que no se ha tomado suficientemente en cuenta la posibilidad de conceder un acceso parcial, de conformidad con el artículo 4.6 del Reglamento n.º 1049/2001".

SE: "Las dos primeras frases del apartado 1, la primera fase del apartado 2, el apartado 1 del anexo, excepto la última frase de la letra c), y el apartado 3 del anexo, excepto la letra c), no se ven afectados por la excepción y, por consiguiente, deberían divulgarse, de conformidad con el artículo 4.6".

Las Delegaciones acordaron por mayoría hacer público el resultado de la votación.
En vista de lo cual, se invita al Comité de Representantes Permanentes a sugerir al Consejo que en su próxima sesión:

– haga constar como punto "A" su acuerdo sobre el proyecto de respuesta que figura en el anexo de la presente nota, con el voto en contra de las Delegaciones danesa y sueca, y

– decida hacer público el resultado de la votación.

El anexo sólo existe en inglés.

1. The applicant refers to document 12488/08 and COR 1 (both classified "RESTREINT UE") which is a note from the General Secretariat of the Council to delegations on possible EU support to stabilising Georgia region.

2. In its reply dated 2 February 2009, the General Secretariat refused access to the documents pursuant to Article 4(1)(a) of the Regulation (protection of the public interest with regard to international relations) and, in the absence of evidence of an overriding public interest in disclosure, also pursuant to Article 4(3) of the Regulation (protection of the decision making process of the Council).

3. The Council notes that the applicant asked the institution to reconsider its position without bringing forward any arguments to support his confirmatory application. The Council thoroughly examined the requested documents and carried out new internal consultations within its General Secretariat to ascertain the applicability of the above-mentioned exceptions to the parts retained.
4. In the Council Conclusions on the situation in Georgia of 13 August 2008, the Council considered that the EU must be prepared to commit itself, including on the ground, to support every effort, including those of the UN and the OSCE, with a view to a peaceful and lasting solution to the conflict in Georgia. It invited the SG/HR, in liaison with the Commission, to prepare proposals for such EU support. Documents 12488/08 + COR 1 contain such proposals, with a focus on operational options, including support to the efforts of the UN and OSCE, an immediate increase in EU presence on the ground, and an ESDP mission.

Following the renewed assessment of documents 12488/08 + COR 1, the Council confirms the approach taken by the General Secretariat in its reply to the applicant's initial request. If released to the public, the analyses, assessments and internal opinions contained in this note would seriously prejudice the European Union's international relations by revealing in detail the steps being taken by the European Union in circumstances which have a high political impact in the whole area. Disclosure of such information would, furthermore, be detrimental to the efforts undertaken by the Council to come to efficient and effective conclusions about the action to be taken by the European Union in such delicate situations in the future.

5. Public access to documents 12488/08 + COR 1 must therefore be denied pursuant to Article 4(1)(a), third indent, of the Regulation (protection of the public interest as regards international relations).

6. The Council has also looked into the possibility of granting partial access to these documents as foreseen in Article 4(6) of the Regulation, but concluded that this is impossible since the content of the documents form an inseparable whole.

7. The applicant may, however, have access to document 12460/08 which contains the above-mentioned Council Conclusions on the situation in Georgia adopted by the General Affairs and External Relations Council on 13 August 2008.

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