



Council of the  
European Union

Brussels, 31 October 2019  
(OR. en)

13654/19

INF 301  
API 160

**NOTE**

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From: General Secretariat of the Council  
To: Working Party on Information  
Subject: Public access to documents  
- Confirmatory application No 37/c/02/19

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Delegations will find attached the:

- request for access to documents sent to the General Secretariat of the Council on 17 September and registered on the same day (Annex 1);
- reply from the General Secretariat of the Council dated 29 October 2019 (Annex 2);
- confirmatory application dated 30 October 2019 and registered on the same day (Annex 3).

[E-mail message sent to [access@consilium.europa.eu](mailto:access@consilium.europa.eu) on 17 September 2019 - 12:16 using the electronic form available in the Register application]

Title/Gender: **DELETED**

Family Name: **DELETED**

First Name: **DELETED**

E-Mail: **DELETED**

Occupation: **DELETED**

On behalf of:

Address:

Telephone:

Mobile:

Fax:

Requested document(s) Hello,

I would like to request access to the following documents:

- ST 12005 2019 INIT
- ST 11198 2019 INIT
- ST 10775 2019 INIT
- ST 10724 2019 INIT
- ST 8665 2019 INIT
- ST 5220 2019 INIT
- ST 11964 2019 INIT
- ST 11992 2019 INIT
- ST 10494 2019 INIT

Thank you very much. Kind regards,

1st preferred linguistic version: EN - English

2nd preferred linguistic version: ES - Spanish



**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, 29 October 2019

**DELETED**

Email: **DELETED**

Ref. 19/1989-vl-rh/jg

Request made on: 17.09.2019

Deadline extension: 08.10.2019

Dear **DELETED**,

Thank you for your request for access to documents of the Council of the European Union.<sup>1</sup>

Please find enclosed document **12005/19**.

I regret to inform you that access to documents **11198/19, 10775/19, 10724/19, 8665/19, 5220/19, 11964/19, 11992/19** and **10494/19** cannot be given for the reasons set out below.

Documents **11198/19, 10775/19, 8665/19** and **5220/19** are bearing the classification "RESTREINT UE/EU RESTRICTED", which means that their unauthorised disclosure could be disadvantageous to the interests of the Union or of one or more of its Member States.<sup>2</sup>

Documents **5220/19** and **11198/19**, drawn up by the EEAS for the Political and Security Committee (PSC) and the European Union Military Committee (EUMC), contain the six-monthly report on the EU Naval Force Operation in the Central Mediterranean, EUNAVFOR MED Sophia, respectively from 1 June to 30 November 2018 and from 1 December 2018 to 31 May 2019.

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<sup>1</sup> 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).

<sup>2</sup> Council Decision of 23 September 2013 on the security rules for protecting EU classified information (2013/488/EU), OJ L 274, 15.10.2013, p. 1.

These documents include a variety of highly sensitive data on military assets of this mission and refer to intelligence data (sources, intelligence collection methods and targets) as well as operational procedures, shortfalls, logistic facilities and flows, communications and information systems and command and operational infrastructures.

Their disclosure could expose to serious danger all the personnel engaged in the field (risks of death, impairment, abduction or torture for EU citizens, host nation citizens, partner nation citizens and allied nations citizens). It could also cause serious prejudice to the military forces on the ground and lead to a military defeat of the host nation forces, of the partner nations forces and of the allied nations forces, which is the main objective of the hostile entities.

In the light of the above, if released to the public, these documents would undermine the protection of the public interest as regards public security, defence and military matters and EU's international relations. As a consequence, the General Secretariat has to refuse access.<sup>3</sup>

Documents **10775/19** and **8665/19**, drawn up by the EEAS for the PSC (as regards doc. **8665/19**, also for the EUMC), contain military advice, respectively on the entire abovementioned EUNAVFOR MED Operation and on the monitoring ashore activities in Libya.

These documents provide an assessment and a set of recommendations and guidelines on different procedural aspects of the capacity building mechanisms (in particular, focusing on the staff engaged in the field) for an efficient and effective implementation of the monitoring mission concerned, that is taking place in a very difficult and complex military and political environment.

Given their sensitive content, their disclosure could cause prejudice to the entire operation insofar it would put into danger the lives of the deployed EU military and civilian personnel and compromise the entire operation. Therefore, their release would undermine the protection of public interest with regard to defence and military matters and international relations.

Consequently, access to these two documents cannot be granted.<sup>4</sup>

Document **10724/19** is a Note from the Politico-Military Group (PMG) to the Political and Security Committee containing the Updated Communication Strategy 2019 for the abovementioned EUNAVFOR MED Sophia.

This document contains analytical data on the implementation of the mission, focusing in particular on the information communication strategy, on the coordination with third countries authorities and the cooperation with partner organisations in case of crises of unexpected circumstances with potential media impact, to ensure coherent and coordinated informative responses.

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<sup>3</sup> Article 4(1)(a), first, second and third indent, of Regulation (EC) No 1049/2001.

<sup>4</sup> Article 4(1)(a), second and third indent of Regulation (EC) No 1049/2001.

Disclosure of such information of internal, confidential nature would cause prejudice to the EU's public interest with regard to defence and military matters and international relations. Therefore, access to this document cannot be granted.<sup>(4)</sup>

Document **ST 11964/19 INIT** of 6 September 2019 is a note from the Presidency to delegations on *Cooperation between Civilian CSDP missions/operations and EU Policy Cycle/EMPACT actors*. It contains information related mainly to data sharing within the EU, between Member States, JHA agencies, and CSDP missions and operations, as well as with international partners. The aim is to address trafficking and smuggling networks and in this context the use of operational joint investigation teams to be extended to include relevant third countries.

Release of this report would jeopardize the public security by revealing sensitive elements of cooperation and synergies between civilian CSDP missions, Commission services and JHA actors. Disclosure of document **ST 11964/19 INIT** would therefore undermine the protection of the public interest as regards public security. As a consequence, the General Secretariat has to refuse access.<sup>5</sup>

Document **11992/19** is a Note from the Committee for Civilian Aspects of Crisis Management (CIVCOM) to the Political and Security Committee focusing on the Concept of the use of "Specialised Teams" in Civilian CSDP Missions. It contains an analysis of general and detailed provisions on administrative and operational nature (selection process, responsibilities, working methodologies, command, control, etc.) to help establish such teams that are considered as important reinforcement resources in the multi-layer approach envisaged to enhance the responsiveness of civilian CSDP.

Since this is the first time that these specialised teams will be deployed and having regard to the intrinsic character of this document and its relevance for the consolidation of the strategic approach of the EU in this field, disclosure of this document at this stage would prejudice the EU's international relations as well as the institution's decision making process..

Therefore, access to this document cannot be granted.<sup>6</sup>

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<sup>5</sup> Article 4(1)(a), first indent, of Regulation (EC) No 1049/2001

<sup>6</sup> Article 4(1)(a), third indent and Article 4(3), first subparagraph of Regulation (EC) No 1049/2001.

Document **ST 10494/19 INIT** of 4 July 2019 is a Note from the Presidency to delegations on *Europol's cooperation with strategic partners: strengths and possible inefficiencies in cooperation with Private Parties*. The aim is to identify and conclude the Council's views regarding Europol's cooperation with its strategic partners, namely private parties, and the Agency's role in supporting Member States tackling cross-border serious and organized crime.

Release of the document would jeopardize the public security by revealing sensitive elements related to changes and challenges in EUROPOL's operational environment. Disclosure of document **ST 10494/19 INIT** would therefore undermine the protection of the public interest as regards public security. As a consequence, the General Secretariat has to refuse access to the document.<sup>7</sup>

Having also looked into the possibility of releasing parts of the above-mentioned documents<sup>8</sup>, the General Secretariat is of the opinion that you may have access to some parts of document **10724/19** (Chapter I, points 1 to 5 and part of point 6; Chapter III; Chapter IV, first paragraph) that are not covered by any exception of the Regulation. As regards the other documents, since the information contained in each of them forms an inseparable whole, regrettably the General Secretariat is unable to give partial access.

You can ask the Council to review this decision within 15 working days of receiving this reply (confirmatory application).<sup>9</sup>

Yours sincerely,

Fernando FLORINDO

Enclosures: 2

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<sup>7</sup> Article 4(1)(a), first indent, of Regulation (EC) No **1049/2001**

<sup>8</sup> Article 4(6) of Regulation (EC) No **1049/2001**.

<sup>9</sup> Article 7(2) of Regulation (EC) No **1049/2001**.

Council documents on confirmatory applications are made available to the public. Pursuant to data protection rules at EU level (Regulation (EU) No **2018/1725**, if you make a confirmatory application your name will only appear in related documents if you have given your explicit consent.

**From:** DELETED

**Sent:** Wednesday, October 30, 2019 3:37 PM

**To:** TRANSPARENCY Access to documents (COMM) <Access@consilium.europa.eu>

**Subject:** Re: Ref. 19/1989-vl-rh/jg

Hello,

After thoroughly reading the reasons put forward not to disclose the documents, I would like to start a **confirmatory application** in regards to the following documents:

Documents 5220/19, 11198/19, 10775/19, 8665/19 and 10724/19: partial access should be further studied as to provide some transparency on the operational functioning of the Operation Sophia and, namely, its cooperation with the JHA agencies (Frontex, Easo and Europol).

Thank you. Kind regards,

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