



Council of the
European Union

Brussels, 22 March 2017
(OR. en)

6961/17

INF 32
API 25

NOTE

From: General Secretariat of the Council
To: Working Party on Information
Subject: Public access to documents
- Confirmatory application No 05/c/01/17

Delegations will find attached the:

- request for access to documents sent to the General Secretariat of the Council on 16 February 2017 and registered the same day ([Annex 1](#));
- reply from the General Secretariat of the Council dated 2 March 2017 ([Annex 2](#));
- confirmatory application dated 2 March 2017 and registered the same day ([Annex 3](#))

[E-mail message sent to access@consilium.europa.eu on 16 February 2017- 14:40 using the electronic form available in the Register application]

From: **DELETED**

Sent: Thursday, February 16, 2017 14:40

To: SECRETARIAT DGF Access

Subject: Electronic Request for Access

Title/Gender:

Family Name **DELETED**

First Name: **DELETED**

E-Mail: **DELETED**

Occupation: NGO

On behalf of: Act Alliance EU

Address: Bd de Charlemagne 28

Telephone: **DELETED**

Mobile **DELETED**

Fax: **DELETED**

Requested document(s): Document Number ST 5673 2017 INIT

Title Common messages on the humanitarian approach in Area C

1st preferred linguistic version: EN - English

2nd preferred linguistic version: FR - French



Council of the European Union

General Secretariat

Directorate-General Communication and Information

Knowledge Management

Transparency

Head of Unit

Brussels, 2 March 2017

DELETED

Email: **DELETED**

Ref. 17/0345-nh/mf

Request made on: 16.02.2017

Dear **DELETED**,

Thank you for your request for access to documents of the Council of the European Union.¹

I regret to inform you that access to document **5673/17** cannot be given for the reasons set out below.

Document **5673/17** is a note from the General Secretariat of the Council to the delegations containing common messages on the humanitarian approach in Area C.

This document contain messages formulated for voluntary, non-binding use by EU institutions and Member States in their diplomatic contacts. Release of the information contained in this document would prejudice relations between the European Union and some third countries.

Disclosure of the document would therefore undermine the protection of the public interest as regards international relations. As a consequence, the General Secretariat has to refuse access to the document.²

¹ 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).

² Article 4(1)(a), third indent, of Regulation (EC) No 1049/2001.

We have also looked into the possibility of releasing parts of the document.³ However, as the information contained in the document forms an inseparable whole, 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).⁴

Yours sincerely,

Fernando PAULINO PEREIRA

³ Article 4(6) of Regulation (EC) No 1049/2001.

⁴ 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 (EC) No 45/2001), if you make a confirmatory application your name will only appear in related documents if you have given your explicit consent.

[E-mail message sent to access@consilium.europa.eu on 2 March 2017 - 15:11]

From: **DELETED**

Sent: Thursday, March 2, 2017 15:11

To: SECRETARIAT DGF Access

Subject: RE: Ref. 17/0345-nh/mf

This is a confirmatory application.

As repeatedly affirmed by the ECJ, a matter falling within the scope of the exception concerning international relations does not automatically entail confidentiality.

In this case, your services haven't fulfilled their duty to explain how **specifically** and **actually** the disclosure might undermine the interest protected by the exception upon which you are relying (cf. Council v In 't Veld C-350/12, Paragraph 44) and thus I cannot judge whether your decision is legally warranted or not.

You also haven't specified how this case differs from the past disclosure of documents of the exact same nature drawn for crisis in [Iraq](#) (July 2015), [Yemen](#) (September 2015), [Syria/Iraq](#) (April 2015), [Ukraine](#) (July 2015), [Libya](#) (July 2015) and [Sudan](#) (April 2015).

Hereby, I am requesting again access to this document again.

Looking forward to hear from you,

DELETED
