



Council of the
European Union

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NOTE

From:	General Secretariat of the Council
To:	Working Party on Information
Subject:	Public access to documents - Confirmatory application No 10/c/01/17

Delegations will find attached the:

- request for access to documents sent to the General Secretariat of the Council on 6 March 2017 and registered on the same day ([Annex 1](#));
- reply from the General Secretariat of the Council dated 23 March 2017 ([Annex 2](#));
- confirmatory application dated 28 March 2017 and registered the same day ([Annex 3](#))

[E-mail message sent to access@consilium.europa.eu on 6 March 2017- 13:32 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: **DELETED**

Address: **DELETED**

Telephone: **DELETED**

Fax: **DELETED**

Requested document(s): Document Number ST 6586 2017 REV 1 COR 1

Title: Draft Council Decision amending Decision 2014/119/CFSP concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Ukraine and Draft Council Implementing Regulation implementing Regulation (EU) No 208/2014 concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Ukraine - Adoption

Full text

Interinstitutional framework

CORLX 123

CFSP/PESC 168

COEST 45

FIN 129

Type document'I/A' ITEM NOTE



Council of the European Union

General Secretariat

Directorate-General Communication and Information

Knowledge Management

Transparency

Head of Unit

Brussels, 23 March 2017

Ms **DELETED**

E-mail: **DELETED**

Ref. 17/0518/mj/mf

Request made on: 6.03.2017

Dear Ms **DELETED**,

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

Document 6586/1/17 REV 1 is a "I/A" Item Note of 2 March 2017 from the General Secretariat of the Council to the Permanent Representatives Committee/Council on the Draft Council Decision amending Decision 2014/119/CFSP concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Ukraine and the Draft Council Implementing Regulation implementing Regulation (EU) No 208/2014 concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Ukraine.

Annex I of this document sets out draft letters to identified individuals listed in the framework of the restrictive measures in view of the situation in Ukraine. These draft letters contain personal data related to

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).

identifiable persons. Such information constitutes personal data within the meaning of Article 2(a) of Regulation 45/2001.²

The data protection rules at EU level provide that when the personal data collected is to be used for a different purpose, including disclosure to the public, a balance needs to be established between the public interest in having access to such data and the legitimate right of individuals to protect their personal data.³

After carefully considering all the principles related to this request, on balance the General Secretariat has concluded that disclosure to the public of the personal data contained in this part of the document would undermine the protection of privacy and the integrity of the identified individuals. As a consequence, the General Secretariat has to refuse public access to Annex I of the document.⁴

However, as abovementioned, pursuant to Article 4(6) of the Regulation, you may have access to the rest of the document which is not covered by this exception.

You may also have access to document 6586/1/17 REV 1 COR 1.

You can ask the Council to review this decision within 15 working days of receiving this reply (confirmatory application).⁵

Yours sincerely,

Fernando PAULINO PEREIRA

Enclosure

² Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (Official Journal L 8, 12.01.2001, p. 1).

³ Article 8 of Regulation (EC) No 45/2001.

⁴ Article 4(1)(b) of Regulation (EC) No 1049/2001.

⁵ 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 28 March 2017 - 11:36]

From: **DELETED**

Sent: Tuesday, March 28, 2017 11:36 AM

To: SECRETARIAT DGF Access

Subject: Re: Ref. 17/0518-mj/mf

APPLICATION FOR REVIEW OF A DECISION

Dear Sir/Madam,

Firstly, I should like to thank you for your reply of 23 March 2017. I greatly appreciated receiving it in Dutch.

I shall now address your explanation in your letter of 23 March 2017.

My question is not concerned with obtaining personal data. I cannot therefore agree with your reasoning, according to which the 'draft letters contain personal data related to identifiable persons. Such information constitutes personal data within the meaning of Article 2(a) of Regulation 45/2001'.

I will explain my initial application again.

As part of my doctoral research I have been studying the sanctions regulations and decisions against Ukrainian former politicians, Eastern Ukraine, Crimea and Russia.

I have noted the grounds for inclusion on the sanctions list (as in the wording, for instance, of Decision 2014/119/CFSP). However, when studying the judgments handed down by the Luxembourg Court of Justice in cases brought by persons concerned with regard to their listing under Council Regulation (EU) No 208/2014, I repeatedly came across references to letters of 3 March 2014, 8 July 2014 and 10 October 2014, in which the persons concerned were given the reasons behind the listing and explanations about those reasons.

I should like to receive the draft letters containing and explaining the reasons for the listing in anonymised form, or a general explanation of the reasons for the listing, a general explanation of the content and scope of the aforementioned letters written in 2014 to the persons concerned, or Annex I to document 6586/1/17 REV 1 (36 pages). My main interest is the level of detail in the information received by the persons concerned and the precise basis for that information.

I should also like to know whether the list of names was established by Ukrainian politicians, who subsequently asked the EU if sanctions could be brought against them, or whether the initiative came entirely from the EU, which then requested assistance from Ukraine's prosecution service.

I will now address the question of privacy. The privacy of the persons concerned has already been compromised. The decisions also state that the information is disclosed in accordance with the purpose to be served (recital 9 of Regulation 208/2014) (Article 20 of Regulation (EC) No 45/2001). With that in mind, I take the view that disclosure of the abovementioned information will not further compromise the privacy of those concerned, particularly since I am interested in general information.

As regards public access to documents (Regulation (EC) No 1049/2001), I consider that I am entitled to view the texts on the strength of recitals 10 and 11 of the Regulation: public access to documents also covers access to documents that the EU has received and, in principle, all documents of the institutions should be accessible to the public.

I very much look forward to receiving the requested information.

Many thanks in advance for taking the trouble to send it,

(Complimentary close).

DELETED