



**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 14 November 2013**

**16146/13**

**INF 198  
API 105**

**NOTE**

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Subject: Public access to documents  
- Confirmatory application No 23/c/01/13

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Delegations will find attached:

- request for access to documents sent to the General Secretariat of the Council on 11 October 2013 ([Annex 1](#)).
- reply from the General Secretariat of the Council dated 4 November 2013 ([Annex 2](#))
- confirmatory application dated 11 November 2013 and registered on the same day and exchange of e-mails between the General Secretariat of the Council and the applicant concerning this confirmatory application ([Annex 3](#))

[E-mail message sent on 11 October 2013 - 11:41]

Status : NEW

First Name: **DELETED**

Family Name: **DELETED**

Email: **DELETED**

Postal Address: **DELETED**

Street:

Town:

PostCode:

Residence Country:

Gender:

Country:

Age:

Phone: **DELETED**

Economic Category:

Subject:

Initial question:

Requested document(s): Document Number : 11587/13 (European Union rule of law Mission in Kosovo (EULEX KOSOVO) Monthly Mission Report 5/2013)

Document Number : 11527/13 (Draft Council Decision amending and extending the mandate of the European Union Special Representative in Kosovo - Adoption)

Document Number 11327/2/13 (COUNCIL DECISION authorising the opening of negotiations on a Stabilisation and Association Agreement between the European Union and Kosovo with regard to the provisions relating to readmission)

Document Number 9954/13 (COUNCIL DECISION amending and extending the mandate of the European Union Special Representative in Kosovo COMMON GUIDELINES Consultation deadline for Croatia: 26.6.2013)

**Document Number 11418/13 (Enlargement and Stabilisation and Association Process - Draft Council Decisions authorising the opening of negotiations on a Stabilisation and Association Agreement between the European Union and Kosovo)**

**Document Number 11329/2/13 REV 2 (COUNCIL DECISION authorising the opening of negotiations on a Stabilisation and Association Agreement between the European Union and Kosovo with the exception of the provisions relating to readmission)**

**Document Number 11329/13 ADD 1 (Council decision authorising the opening of negotiations on a Stabilisation and Association Agreement between the European Union and Kosovo with the exception of the provisions relating to readmission)**

**Document Number 11417/1/13 REV 1 (Enlargement and Stabilisation and Association Process = Draft Council Decisions authorising the opening of negotiations on a Stabilisation and Association Agreement between the European Union and Kosovo)**

**Document Number 11327/13 (COUNCIL DECISION authorising the opening of negotiations on a Stabilisation and Association Agreement between the European Union and Kosovo with regard to the provisions relating to readmission)**

**Document Number 11329/13 (COUNCIL DECISION authorising the opening of negotiations on a Stabilisation and Association Agreement between the European Union and Kosovo with the exception of the provisions relating to readmission)**

**Document Number 9034/13 ( Draft Council Decision amending Joint Action 2008/124/CFSP on the European Union Rule of Law Mission in Kosovo, EULEX KOSOVO)**

**Document Number 10326/13 (Directives for the negotiation of a Stabilisation and Association Agreement between the European Union and Kosovo\*\* This designation is without prejudice to positions on status, and is in line with UNSCR 1244/1999 and the ICJ Opinion on the Kosovo declaration of independence.)**

1st preferred linguistic version: HR - Croatian

2nd preferred linguistic version: EN - English



**COUNCIL OF  
THE EUROPEAN UNION**

**GENERAL SECRETARIAT**

*Directorate-General F  
Communication  
Transparency*

*- Access to Documents/  
Legislative transparency*

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B - 1048 BRUSSELS  
Tel: (32 2) 281 67 10  
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E-MAIL:  
[access@consilium.europa.eu](mailto:access@consilium.europa.eu)

Brussels, 4 November 2013

**DELETED**

**e-mail:**

**DELETED**

**Ref. 13/1689-mjb/mf**

Dear **DELETED**,

We have registered your request of 11 October 2013 for access to documents: 11587/13, 11527/13, 11327/2/13 REV2, 9954/13, 11418/13, 11329/2/13 REV2, 11329/ 13 ADD1, 11417/1/13 REV1, 11327/13, 11329/13, 9034/13 and 11326/13. Thank you for your interest.

The General Secretariat of the Council has examined your request on the basis of Regulation (EC) No 1049/2001 of the European Parliament and of the Council regarding public access to European Parliament, Council and Commission documents<sup>1</sup> (hereafter the "Regulation") and specific provisions of the Council's Rules of Procedure<sup>2</sup> and has come to the following conclusion:

Preliminary note:

EU classified information shall be classified at one of the following level, among others<sup>3</sup>:

"RESTREINT UE/EU RESTRICTED": information and material the unauthorised disclosure of which could be disadvantageous to the interests of the European Union or of one or more of the Member States.

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<sup>1</sup> Official Journal L 145, 31.5.2001, p. 43.

<sup>2</sup> Annex II to the Council's Rules of Procedure – Council Decision No 2009/937/EU; Official Journal L 325, 11.12.2009, p. 35.

<sup>3</sup> COUNCIL DECISION of 31 March 2011 on the security rules for protecting EU classified information (2011/292/EU), OJ L 141, 27.5.2011, p.17.

You may have access to **9954/13**.

Document **11587/13 RESTREINT UE/EU RESTRICTED** is a cover note from the European External Action Service (EEAS) to the Political and Security Committee and Third States contributing to EULEX Kosovo containing EEAS document EEAS 01367/13 on "*European Union rule of law Mission in Kosovo (EULEX KOSOVO)*".

This report includes internal assessments and analyses, as well as information on EULEX achievements and contain operational details on the mission's action. Disclosure of these analysis and summaries would negatively affect the effectiveness of the mission's operations and functioning. It would undermine the protection of the public interest as regards public security in Kosovo and it would also prejudice the European Union's international relations and seriously affect relations with the countries in the region.

Accordingly, pursuant to Article 4(1)(a), first and third indents, of the Regulation (protection of the public interest with regard to public security and with regard to international relations), the general Secretariat is unable to grant public access to this document.

The General Secretariat has also looked into the possibility of disclosing parts of the document pursuant to Article 4(6) of the Regulation. However, as the information contained in the document forms an inseparable whole, partial access cannot be granted.

Document **11527/13** is a "I/A" item note from the General Secretariat of the Council to the Permanent Representatives Committee and the Council on "*Draft Council Decision amending and extending the mandate of the European Union Special Representative in Kosovo - Adoption*".

You may have access to this document with the exception of some parts which may allow to draw conclusions on the situation of individual people or allow to identify individuals and which therefore constitute personal data in the sense of the Data Protection Regulation<sup>1</sup>.

Accordingly, pursuant to Article 4(1)(b) of the Regulation (protection of privacy and the integrity of the individual), the General Secretariat is unable to grant you access to those parts of the document.

Document **9034/13** is a "I/A" item note from the General Secretariat of the Council to the Permanent Representatives Committee and the Council on "*Draft Council Decision amending Joint Action 2008/124/CFSP on the European Union Rule of Law Mission in Kosovo, EULEX KOSOVO*".

You may have access to this document with the exception of some parts. Certain parts relate to security issues, namely to security services and equipment to be provided or to be purchased by each mission. Also certain parts may allow to identify individual people in high risk level missions and put in danger the mission personnel.

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<sup>1</sup> 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, 12.1.2001, p. 1.

Some other parts of this document refer to amounts in the budgetary impact statement which might allow to draw conclusions on the situation of individual people or allow to identify individuals and which therefore constitute personal data in the sense of the Data Protection Regulation<sup>4</sup>.

Accordingly, pursuant to Article 4(1)(a), first indent of the Regulation (protection of the public interest with regard to public security) and also pursuant to Article 4(1)(b) of the Regulation (protection of privacy and the integrity of the individual), the General Secretariat is unable to grant you access to those parts of the document.

Document **10326/13 RESTREINT UE/EU RESTRICTED** is a note from the Working party on the Western Balkans Region to the Permanent Representatives' Committee on "*Directives for the negotiation of a Stabilisation and Association Agreement between the European Union and Kosovo*".

Document **11329/13 ADD 1 RESTREINT UE/EU RESTRICTED** is a note from the Working party on the Western Balkans Region to the Permanent Representatives' Committee/Council on "*Directives for the negotiation of a Stabilisation and Association Agreement between the European Union and Kosovo with the exception of the provisions relating to readmission*".

Document **11327/13** and its revised version in document **11327/2/13 REV 2** contain the Council Decision authorising the opening of negotiations on a Stabilisation and Association Agreement between the European Union and Kosovo with regard to the provisions relating to readmission.

Document **11329/13** and its revised version in document **11329/2/13 REV 2** contain the Council Decision authorising the opening of negotiations on a Stabilisation and Association Agreement between the European Union and Kosovo with the exception of the provisions relating to readmission.

Release to the public of these documents would reveal aspects of the strategic objectives the EU intends to achieve in these international negotiations and would enable its negotiating partners to assess the measure of its willingness to compromise. This would not only prejudice the EU's position in its current negotiations but would also negatively affect the climate of confidence in the on-going negotiations and harm EU relations with Kosovo.

Accordingly, pursuant to Article 4(1)(a) of the Regulation (protection of the public interest as regards international relations), the General Secretariat is unable to accede to your request.

The General Secretariat has also looked into the possibility of disclosing parts of the documents pursuant to Article 4(6) of the Regulation. However, as the information contained in the documents forms an inseparable whole, partial access cannot be granted.

Document **11417/1/13 REV 1** is a note from the Working party on the Western Balkans Region to the Permanent Representatives' Committee on "*Enlargement and Stabilisation and Association Process = Draft Council Decisions authorising the opening of negotiations on a Stabilisation and Association Agreement between the European Union and Kosovo*".

Document **11418/13** is a note from the Permanent Representatives' Committee to the Council on the same subject.

You may have access to these documents with the exception of the Annex of both documents containing a draft Council/Commission statement to the minutes of the Council and of Annex II of 11418/13 containing a Commission statement. These statements refer to the opening of negotiations on the Stabilisation and Association Agreement between the EU and Kosovo and the Council has not decided to make those statements public.

Accordingly, pursuant to Article 4(1)(a) of the Regulation (protection of the public interest as regards international relations) and also pursuant to Article 4 (3) of the Regulation (protection of the decision-making process of the Council), the General Secretariat is unable to grant you access to those parts of the document.

Statutory remedy notice

Pursuant to Article 7(2) of the Regulation, you may submit a confirmatory application requesting the Council to reconsider this position, within 15 working days of receiving this reply<sup>1</sup>.

Yours sincerely,

For the General Secretariat

Jakob Thomsen

Enclosures

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<sup>1</sup> Confirmatory applications are published in the Council's Register of documents. Please indicate whether you would like your personal data to be removed from Council documents related to your confirmatory application. Your reply will in no way prejudice your rights under Regulation (EC) No 1049/2001.

**[Confirmatory application - sent by e-mail on 11 November 2013 - 14:26]**

From: **DELETED**

Sent: Monday, November 11, 2013 2:26 PM

To: SECRETARIAT DGF Access

Subject: Re: Ref. 13/1689-mjb/mf

Dear Mr. Thomsen!

Thank you for your response to my request to access the Council documents and for the documents provided.

I would like to submit a confirmatory application for release of the full documents without any redaction: 11587/13; 11527/13; 9034/13; 10326/13; 11329/13; 11327/13 and 11417/1/13.

Although I respect the reasoning of protection of public interest, public safety and personal data, I hope that you will reconsider my request. Reason is simple; the access to these documents is essential for my PhD research and the documents will not in any way be distributed in public. I will use document only for the purpose of my analysis and confirming my research hypothesis.

I thank you for your cooperation and hope for a positive consideration of this application.

Sincerely,

**DELETED**



**[E-mail message sent on 11 November 2013 - 16:43]**

From: SECRETARIAT DGF Access

Sent: Monday, November 11, 2013 4:43 PM

To: **DELETED**

Subject: RE: Ref. 13/1689-mjb/mf

Dear **DELETED**,

The General Secretariat has received your confirmatory application for documents 11587/13; 11527/13; 9034/13; 10326/13; 11329/13; 11327/13 and 11417/1/13.

Does your request also refer to the revised versions of 11327/13 and of 11329/13, documents 11327/2/ REV 2 and 11329/2/13 REV 2? Does it also include 11329/13 ADD 1 RESTREINT UE/EU RESTRICTED?

Yours sincerely,

General Secretariat of the Council of the European Union

Transparency Service - Access to documents

[E-mail message sent on 12 November 2013 - 10:32]

From: **DELETED**

Sent: Tuesday, November 12, 2013 10:32 AM

To: SECRETARIAT DGF Access

Subject: Re: Ref. 13/1689-mjb/mf

Yes, my request includes: revised versions of 11327/13 and of 11329/13, documents 11327/2/REV 2 and 11329/2/13 REV 2, 11329/13 ADD 1 RESTREINT UE/EU RESTRICTED.

Best Regards

**DELETED**

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