



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 32/c/01/14

Delegations will find attached:

- request for access to documents sent to the General Secretariat of the Council on 9 September 2014, registered on 18 September 2014 ([Annex 1](#));
- reply from the GSC dated 9 October 2014 (Annex 2);
- confirmatory application dated 30 October 2014, registered on 31 October 2014 (Annex 3).

DELETED

**COUNCIL OF THE EUROPEAN
UNION**

General Secretariat
Rue de la Loi/Wetstraat 175 B-1048
Bruxelles/Brussel
BELGIQUE/BELGIE

Zagreb, 9 September 2014

REGISTERED LETTER WITH ACKNOWLEDGEMENT OF RECEIPT

Subject: Request for access to documents

Sir,

As a European citizen of Czech nationality, I would like to request access to the following documents:

- The entire correspondence exchanged, from 7 December 2009 onwards, between the Secretary-General of the Council / High Representative and the International Criminal Tribunal for the Former Yugoslavia (Office of the Prosecutor and Trial Chamber) in connection with the "Prosecutor v Ante Gotovina, Ivan Čermak and Mladen Markač" case, as well as the documents other than reports drafted by the European Community Monitoring Mission, annexed to that correspondence.
- Reports by EU monitors present in the Knin area in Croatia from 1 August 1995 to 31 August 1995.

I would request that these documents be sent preferably by email, or failing that by post. This request is based on Regulation (EC) No 1049/2001 and, concerning the correspondence exchange, on the judgment of the General Court of 3 October 2012 (Case T-63/10 - Jurašinović v Council).

[Complimentary close].

DELETED



Council of the European Union

General Secretariat

Directorate-General Communication and Document Management

Directorate Document Management

Brussels, 9 October 2014

DELETED

Subject: Request for access to documents - Ref. no.: 14/1601-Is/mi

DELETED

Thank you for your letter dated 9 September 2014. The General Secretariat's Transparency Team has received your request for access to documents and registered it (on 18 September 2014).

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 documents¹ (hereinafter referred to as "the Regulation") and the specific provisions concerning public access to Council documents² and has reached the following conclusion:

You have requested access to the following documents:

¹ Official Journal L 145, 31.5.2001, p. 43.

² Annex II to the Council's Rules of Procedure - Council Decision 2009/937/EU; Official Journal L 325, 11.12.2009, p. 35.

- (1) The entire correspondence exchanged, from 7 December 2009 onwards, between the Secretary-General of the Council/High Representative (SG/HR) and the International Criminal Tribunal for the Former Yugoslavia (ICTY) (Office of the Prosecutor and Trial Chamber) in connection with the "Prosecutor v Ante Gotovina, Ivan Čermak and Mladen Markač" case, as well as the documents other than reports drafted by the European Community Monitoring Mission (EUMM), annexed to that correspondence;
- (2) The reports by EU monitors present in the Knin area in Croatia from 1 August 1995 to 31 August 1995.

Regarding the first part of your request for access

The General Secretariat has identified 40 documents (see Annex 1) which are covered by the first part of your request for access. These documents are correspondence exchanged between the Secretary-General of the Council/High Representative and the ICTY in connection with the "Prosecutor v Ante Gotovina, Ivan Čermak and Mladen Markač" case.

First of all the General Secretariat wishes to observe that the Prosecutor of the ICTY made requests to SG/HR Solana to have certain documents in the archives of the EUMM which were supplied to the ICTY's Office of the Prosecutor on a confidential basis released to enable Mr Ante Gotovina's defence team to acquaint themselves with them. The Trial Chamber of the ICTY also requested, in letters addressed to SG/HR Solana, that documents be produced for the purposes of organising the Gotovina case. SG/HR Solana replied to the requests for information made by the ICTY Prosecutor and Trial Chamber, stipulating certain conditions for making the documents under consideration from the EUMM archives available to the Gotovina defence team. Annexed to the SG/HR's letters are expurgated versions of the reports by the EU monitors present in Croatia throughout the duration of the EUMM mission which contain observations, evaluations and an analysis of the political, military and security situation in the mission's zones of activity. Since these are expurgated versions of the same reports covered by the second part of your request for access, the General Secretariat would ask you to refer to the second part of this letter to read its conclusions regarding access to these reports.

As far as the correspondence written by the SG/HR is concerned, we can give you access to all the documents listed in Annex 2 to this letter, with the exception of the abovementioned reports.

Some of this correspondence without annexes is in fact available on the ICTY's website³, without the cover page of each document. The documents in question are listed in Annex 3 to this letter. Following consultations with the ICTY, the General Secretariat has concluded that access may also be granted to the cover pages of each of the documents under consideration, with the exception of personal data contained in the document listed as number 27. Public disclosure of those personal data, which consist of names and contact details of ICTY staff

The General Secretariat consulted the ICTY's Office of the Prosecutor regarding the other documents under consideration (listed in Annex 4 to this letter). Following consultations with the UN Office of Legal Affairs, the ICTY agreed to disclose the documents under consideration, with the exception of certain parts which contain either information relating to criminal proceedings before the ICTY or contact details of the ICTY staff in charge of the file.

The ICTY has explained to the General Secretariat that the parts concerning criminal proceedings before the ICTY refer inter alia to the assessment of evidence and to the investigation or trial strategy in the specific cases to which the relevant correspondence refers. The ICTY has underlined that the disclosure of such elements of procedure would be detrimental to the work of the prosecutor in general, and it has therefore requested the General Secretariat not to release those parts of the correspondence. In relation to the specific contact details of ICTY staff the ICTY has explicitly objected - on behalf of its staff and in order to protect them - to the disclosure of those personal data which consist of names, phone numbers and email addresses.

³ www.icty.org.

The General Secretariat has assessed the documents under consideration in the light of the explanations provided by the ICTY. Following a thorough examination of these documents, the General Secretariat notes that:

(a) Certain passages referred to by the ICTY contain elements of procedure relating amongst other things to the assessment of evidence, the investigation and the strategy used during the proceedings. These elements of procedure could reveal the Prosecutor's strategy as regards the functioning of the ICTY. The disclosure of the elements in question would allow conclusions to be drawn concerning both the conduct of specific criminal proceedings by the Prosecutor of the ICTY and his working methods in general. On that basis the General Secretariat considers that disclosure risks having a harmful impact on the serenity of the ICTY proceedings as a whole. The General Secretariat therefore points out that these considerations linked to the good conduct and the serenity of court proceedings constitute the *raison d'être* of the exception in Article 4(2), second indent, of Regulation No 1049/2001 (protection of court proceedings).

With respect to the protection of court proceedings, the General Secretariat has carefully examined whether there is an overriding public interest in disclosure of the documents. In that respect it has taken due account of the need to ensure transparency and public participation as well as the public interest in being informed about the ICTY's proceedings in the specific case. In the light of its examination, the General Secretariat has concluded that the public interest in gaining more knowledge about this specific case does not prevail over the interest in protecting the proper conduct of the ICTY's proceedings in general under Article 4(2), second indent, of Regulation No 1049/2001. In that respect the General Secretariat also draws attention to the fact that access is now being granted to the main parts of the documents under consideration.

(b) Moreover, having consulted the ICTY's Office of the Prosecutor, the General Secretariat has also concluded that full release of the documents under consideration on a unilateral basis would present a real risk of negatively affecting its international relations with the ICTY and the UN system in general. The ICTY, in close cooperation with the UN Office of Legal Affairs, has repeatedly objected to the release of the undisclosed parts of the documents under scrutiny.

As indicated above, it has provided reasons to justify its position and the General Secretariat considers these valid. If the General Secretariat made these parts of the document public nevertheless, this would risk affecting the confidence which the ICTY and the UN institutions place in the Council as a reliable recipient of its sensitive information, thereby reducing the future flow of sensitive information between the Council and the ICTY, and more generally the United Nations. This illustrates how public release would, more generally, risk impacting on future international cooperation between the Council on the one hand and the ICTY and other UN bodies on the other hand. There is therefore a real and concrete risk that full release of the documents would impair the Council's international relations.

In the light of the above, the General Secretariat concludes that full disclosure also has to be refused pursuant to Article 4(1)(a), third indent, of Regulation No 1049/2001 (protection of international relations).

The General Secretariat has also examined whether partial access may be granted to certain parts of the abovementioned passages on the basis of Article 4(6) of Regulation No 1049/2001, but concluded that they were covered by the exceptions in their entirety.

(c) Moreover, certain parts contain personal data. The names and contact details of the relevant contact persons at the ICTY are given at the end of each of the documents identified in Annex 1. Some of them also contain personal data in other parts of the document. According to the document reference numbers in list, this concerns the last page of document 7 and the cover pages of documents 17, 19, 33, 34, 36 and 37. In addition, document 36 contains personal data related to other individuals cited in relation to reports relevant for the trial, in particular information enabling identification of the authors of the reports. Those documents thus contain personal data within the meaning of Article 2(a) of 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 data⁴. The dissemination of such data – including by disclosure to the public – falls within the definition of 'processing of personal data', for the purposes of that Regulation.

⁴ OJ L 8, 12.1.2001, p. 1.

The General Secretariat does not consider that the public interest in having access to the personal data concerned prevails over the interest in protecting the personal data of the ICTY's staff and - as regards document 36 - also of the other individuals concerned, under Article 4(1)(b) of Regulation (EC) No 1049/2001, in conjunction with Articles 8 and 18 of Regulation (EC) No 45/2001.

The General Secretariat has also examined the possibility of providing partial access to these personal data in accordance with Article 4(6) of Regulation 1049/2001, but concluded that the invoked exception applies to the personal data in their entirety. The General Secretariat therefore concluded that public access to the personal data referred to above should be refused under Article 4(1)(b) of Regulation No 1049/2001 (protection of privacy of the individual).

Consultations are ongoing regarding two documents, listed as documents 4 and 6 in Case C-63/10. When these consultations have finished a further reply will be given.

Given the above, the General Secretariat is in a position to grant you access to all the documents listed in Annex 2 to this document, with the exception of the reports drafted by the European Community Monitoring Mission, annexed to that correspondence. It can also grant you access to all the documents listed in Annex 3, with the exception of the abovementioned reports and the personal data contained in document number 27, under Article 4(1)(b) of Regulation No 1049/2001. In addition it can grant you partial access to the documents listed in Annex 4, with the exception of the parts protected by Article 4(1)(a) (protection of international relations), Article 4(2), second indent (protection of court proceedings) and Article 4(1)(b) (protection of personal data) of Regulation No 1049/2001 and the reports drafted by the European Community Monitoring Mission.

Regarding the second part of your request for access

The General Secretariat has identified 205 documents (see Annex 5) which are covered by the second part of your request for access. There are reports by EU monitors present in the Knin area in Croatia from 1 August 1995 to 31 August 1995.

The primary objective of the European Community Monitoring Mission was to contribute to monitoring political and security developments in the Western Balkans as well as border monitoring, inter-ethnic issues and refugee returns. The documents covered by your request contain daily reports, special reports, topical reports and weekly assessments formulated by the EC monitors in the Knin region of Croatia between 1 and 31 August 1995.

The monitors' reports contain comments, appreciations and analyses of the political, military and security situation in the Knin area. Many of those reports are based on interviews with local actors and witnesses, under cover of confidentiality. Due to their nature and sensitive content, the reports were communicated solely to the headquarters and the local components of the mission.

The release of the requested documents would put at risk the international relations of the EU and its Member States with the region by disclosing information revealing in detail comments, appreciations and analyses exchanged among the different components of the mission regarding the political, military and security situation in the area.

Furthermore, disclosure of the documents in question would reveal the identity of the monitors and the assessments they formulated, as well as the identity of the witnesses and other sources of information who were interviewed on the understanding of confidentiality. Under those conditions, disclosure of the requested documents would undermine the protection of public security and, in particular, the physical security and integrity of the monitors and that of the witnesses and other sources of information, who provided information on the understanding of confidentiality, by revealing to the public their identity and assessments contained in the reports.

In the light of the above, the General Secretariat has concluded that, in accordance with Article 4(1)(a) of Regulation (EC) No 1049/2001, first and third indents (protection of public security and protection of international relations), public access must be refused to the requested documents.

However, the General Secretariat has assessed the possibility of granting partial access to the documents on the basis of Article 4(6) of the Regulation. It has duly concluded that public access may be granted to those parts of the following documents which are not covered by the above exceptions under the Regulation:

- (a) EUMM-#4123 - Daily report
- (b) EUMM-#4124 - Daily report
- (c) EUMM-#4125 - Daily report
- (d) EUMM-#4132 - Daily report
- (e) EUMM-#4134 - Daily report
- (f) EUMM-#70968 - Daily report
- (g) EUMM-#71072 - Itinerary - HOM 28 and 29 AUG 1995
- (h) EUMM-#71076 - HOM/CAR 26 AUG 1995

The General Secretariat has also assessed the possibility of giving partial access to the remaining documents, but it did not retain this possibility since partial access would amount to only small fragments which would be of no use to you.

Appeal procedures

According to Article 7(2) of the Regulation, you may submit a confirmatory application requesting that the Council reconsider this position, within 15 working days of receiving this reply⁵.

[Complimentary close].

Jakob Thomsen

enclosures

⁵ Confirmatory applications are published in the register of Council documents. If you submit a confirmatory application, your personal data will be published in the documents related to your confirmatory application only if you have given your explicit consent for this. Your reply relating to the publication of your personal data will in no way prejudice your rights under Regulation (EC) No 1049/2001.

	Date	Sender	Addressee	Subject
1	29/04/2008	Prosecutor Brammertz	SG/HR Solana	transmission of documents
2	5/05/2008	Prosecutor Brammertz	SG/HR Solana	transmission of documents
3	21/05/2008	SG/HR Solana	Procureur Brammertz	transmission of documents
4	11/06/2008	Trial chamber I of the ICTY	SG/HR Solana	request dated 10/6/2008
5	16/06/2008	SG/HR Solana	Procureur Brammertz	transmission of documents
6	17/06/2008	SG/HR Solana	Trial chamber I of the ICTY	reply to the request dated 10/6/2008
7	13/08/2008	Prosecutor Brammertz	SG/HR Solana	transmission of documents
8	24/09/2008	Prosecutor Brammertz	SG/HR Solana	transmission of documents
9	26/09/2008	SG/HR Solana	Procureur Brammertz	transmission of documents
10	22/10/2008	Prosecutor Brammertz	SG/HR Solana	transmission of documents
11	28/10/2008	SG/HR Solana	Procureur Brammertz	transmission of documents
12	16/01/2009	SG/HR Solana	Procureur Brammertz	transmission of documents
13	06/04/2009	Trial chamber I of the ICTY	SG/HR Solana	request and invitation to reply dated 3/4/2009
14	17/04/2009	SG/HR Solana	Trial chamber I of the ICTY	reply to the request dated 3/4/2009
15	5/05/2009	Prosecutor Brammertz	SG/HR Solana	transmission of documents
16	13/05/2009	Trial chamber I of the ICTY	SG/HR Solana	notification of reply and invitation to surreply dated 12/5/2009
17	14/05/2009	Prosecutor Brammertz	SG/HR Solana	transmission of documents
18	26/05/2009	SG/HR Solana	Trial chamber I of the ICTY	reply to request dated 12/5/2009
19	28/05/2009	Prosecutor Brammertz	SG/HR Solana	transmission of documents
20	9/06/2009	SG/HR Solana	Procureur Brammertz	transmission of documents
21	12/06/2009	SG/HR Solana	Procureur Brammertz	transmission of documents
22	15/06/2009	Prosecutor Brammertz	SG/HR Solana	transmission of documents
23	15/06/2009	Prosecutor Brammertz	SG/HR Solana	transmission of documents
24	16/06/2009	Trial chamber I of the ICTY	SG/HR Solana	notification of reply dated 23/4/2009
25	18/06/2009	Prosecutor Brammertz	SG/HR Solana	transmission of documents
26	22/06/2009	SG/HR Solana	Procureur Brammertz	transmission of documents
27	28/07/2009	Trial chamber I of the ICTY	SG/HR Solana	request dated 19/6/2009
28	31/07/2009	SG/HR Solana	Procureur Brammertz	transmission of documents
29	31/07/2009	SG/HR Solana	Procureur Brammertz	transmission of documents
30	13/08/2009	SG/HR Solana	Trial chamber I of the ICTY	reply to request dated 19/6/2009
31	14/08/2009	Trial chamber I of the ICTY	SG/HR Solana	notification of reply dated 13/8/2009
32	25/08/2009	SG/HR Solana	Procureur Brammertz	transmission of documents
33	10/09/2009	Prosecutor Brammertz	SG/HR Solana	transmission of documents
34	15/09/2009	Prosecutor Brammertz	SG/HR Solana	transmission of documents
35	18/09/2009	SG/HR Solana	Procureur Brammertz	transmission of documents
36	22/09/2009	Prosecutor Brammertz	SG/HR Solana	transmission of documents
37	6/10/2009	Prosecutor Brammertz	SG/HR Solana	transmission of documents
38	15/10/2009	SG/HR Solana	Procureur Brammertz	transmission of documents
39	19/10/2009	SG/HR Solana	Procureur Brammertz	transmission of documents
40	09/11/2009	SG/HR Solana	Procureur Brammertz	transmission of documents

Annex 2

Document reference number in case C-63/10	Date	Sender	Addressee	Subject	Contains redacted pages relating to protected reports
3	21/05/2008	SG/HR Solana	Prosecutor Brammertz	transmission of documents	Yes
5	16/06/2008	SG/HR Solana	Prosecutor Brammertz	transmission of documents	Yes
9	26/09/2008	SG/HR Solana	Prosecutor Brammertz	transmission of documents	Yes
11	28/10/2008	SG/HR Solana	Prosecutor Brammertz	transmission of documents	Yes
12	16/01/2009	SG/HR Solana	Prosecutor Brammertz	transmission of documents	Yes
14	17/04/2009	SG/HR Solana	Trial chamber I of the ICTY	reply to the request dated 3/4/2009	No
18	26/05/2009	SG/HR Solana	Trial chamber I of the ICTY	reply to request dated 12/5/2009	No
20	9/06/2009	SG/HR Solana	Prosecutor Brammertz	transmission of documents	Yes
21	12/06/2009	SG/HR Solana	Prosecutor Brammertz	transmission of documents	Yes
26	22/06/2009	SG/HR Solana	Prosecutor Brammertz	transmission of documents	Yes
28	31/07/2009	SG/HR Solana	Prosecutor Brammertz	transmission of documents	Yes
29	31/07/2009	SG/HR Solana	Prosecutor Brammertz	transmission of documents	Yes
30	13/08/2009	SG/HR Solana	Trial chamber I of the ICTY	reply to request dated 19/6/2009	No
32	25/08/2009	SG/HR Solana	Prosecutor Brammertz	transmission of documents	Yes
35	18/09/2009	SG/HR Solana	Prosecutor Brammertz	transmission of documents	Yes
38	15/10/2009	SG/HR Solana	Prosecutor Brammertz	transmission of documents	Yes
39	19/10/2009	SG/HR Solana	Prosecutor Brammertz	transmission of documents	Yes
40	09/11/2009	SG/HR Solana	Prosecutor Brammertz	transmission of documents	Yes

Annexe 3

Document reference number in case C-63/10	Date	Sender	Addressee	Subject	Contains redacted pages relating to protected reports	Contains redacted pages relating to data protection
13	3/4/2009	ICTY	SG/HR Solana	Notification	No	No
16	12/05/2009	ICTY	SG/HR Solana	Notification	Yes	No
24	16/06/2009	ICTY	SG/HR Solana	Notification	No	No
27	28/06/2009	ICTY	SG/HR Solana	Related to request 19/062009	No	Yes

Document reference number in case C-63/10	Date	Sender	Addressee	Subject	Contains redacted parts relating to the protection of international relations and the protection of court proceedings	Contains redacted parts relating to data protection	Contains redacted pages relating to protected reports
1	29/04/2008	Prosecutor Brammertz	SG/HR Solana	Permission to disclose documents for the purpose of litigation	Yes	Yes	Yes
2	5/05/2008	Prosecutor Brammertz	SG/HR Solana	Permission to disclose documents for the purpose of litigation	Yes	Yes	Yes
7	13/08/2008	Prosecutor Brammertz	SG/HR Solana	Permission to disclose documents for the purpose of litigation	Yes	Yes	No
8	24/09/2008	Prosecutor Brammertz	SG/HR Solana	Permission to disclose documents for the purpose of litigation	Yes	Yes	Yes
10	22/10/2008	Prosecutor Brammertz	SG/HR Solana	Permission to disclose documents for the purpose of litigation	Yes	Yes	No
15	05/05/2009	Prosecutor Brammertz	SG/HR Solana	Permission to disclose documents for the purpose of litigation	Yes	Yes	Yes
17	14/05/2009	Prosecutor Brammertz	SG/HR Solana	Permission to disclose documents for the purpose of litigation	Yes	Yes	Yes
19	28/05/2009	Prosecutor Brammertz	SG/HR Solana	Permission to disclose documents for the purpose of litigation	Yes	Yes	No

22	15/06/2009	Prosecutor Brammertz	SG/HR Solana	Permission to disclose documents for the purpose of litigation	Yes	Yes	Yes
23	15/06/2009	Prosecutor Brammertz	SG/HR Solana	Permission to disclose documents for the purpose of litigation	Yes	Yes	Yes
25	18/06/2009	Prosecutor Brammertz	SG/HR Solana	Permission to disclose documents for the purpose of litigation	Yes	Yes	No
33	10/09/2009	Prosecutor Brammertz	SG/HR Solana	Permission to disclose documents for the purpose of litigation	Yes	Yes	No
34	15/09/2009	Prosecutor Brammertz	SG/HR Solana	Permission to disclose documents for the purpose of litigation	Yes	Yes	No
36	22/09/2009	Prosecutor Brammertz	SG/HR Solana	Permission to disclose documents for the purpose of litigation	Yes	Yes	No
37	6/10/2009	Prosecutor Brammertz	SG/HR Solana	Permission to disclose documents for the purpose of litigation	Yes	Yes	No

	DOCUMENT	ORIGIN	TITLE	DATE
1	EUMM-#4123	cc zadar	Daily report	1/08/1995
2	EUMM-#4124	cc zadar	Daily report	2/08/1995
3	EUMM-#4125	cc zadar	Daily report	3/08/1995
4	EUMM-#4126	cc zadar	Daily report	4/08/1995
5	EUMM-#4127	cc zadar	Daily report	5/08/1995
6	EUMM-#4128	cc zadar	Daily report	7/08/1995
7	EUMM-#4129	cc zadar	Daily report	8/08/1995
8	EUMM-#4130	cc zadar	Daily report	9/08/1995
9	EUMM-#4131	cc zadar	Daily report	10/08/1995
10	EUMM-#4132	cc zadar	Daily report	11/08/1995
11	EUMM-#4133	cc zadar	Daily report	12/08/1995
12	EUMM-#4134	cc zadar	Daily report	14/08/1995
13	EUMM-#4135	cc zadar	Daily report	15/08/1995
14	EUMM-#4136	cc zadar	Daily report	14-15-16/08/1995
15	EUMM-#4137	cc zadar	Daily report	17/08/1995
16	EUMM-#4138	cc zadar	Daily report	18/08/1995
17	EUMM-#38511		DELETED	7/08/1995
18	EUMM-#38520		DELETED	4/08/1995
19	EUMM-#38530		DELETED	4/08/1995
20	EUMM-#38535		DELETED	11/08/1995
21	EUMM-#38538		DELETED	10/08/1995
22	EUMM-#38549		DELETED	17/08/1995
23	EUMM-#38560		DELETED	5/08/1995
24	EUMM-#70834	HCC Zadar & team Dubrovnik	Daily report	1/08/1995
25	EUMM-#70891	HCC Zadar & team Dubrovnik	Daily report	2/08/1995
26	EUMM-#70931	HCC Zadar & team Dubrovnik	Daily report	4/08/1995
27	EUMM-#70932	UNMO team Gospic	DELETED	4/08/1995
28	EUMM-#70933	Team Gospic	Investigation report	4/08/1995
29	EUMM-#70934	Team Gospic	daily report	5/08/1995
30	EUMM-#70935	Team Gospic	Retransmission of a message	5/08/1995
31	EUMM-#70936	Team Dubrovnik	Situation report	5/08/1995

32	EUMM-#70937	Team Dubrovnik	Daily report	6/08/1995
33	EUMM-#70938	Team Gospic	Daily report	6/08/1995
34	EUMM-#70959	Team Dubrovnik	Daily report	7/08/1995
35	EUMM-#70960	Team Gospic	Daily report	7/08/1995
36	EUMM-#70968	Team Dubrovnik	Daily report	8/08/1995
37	EUMM-#70969	Team Gospic	Daily report	8/08/1995
38	EUMM-#70970	Team Dubrovnik	Water	8/08/1995
39	EUMM-#70971	Team Dubrovnik	Assessment	8/08/1995
40	EUMM-#71031	Team Dubrovnik	Daily report	9/08/1995
41	EUMM-#71032	Team Gospic	Daily report	9/08/1995
42	EUMM-#71037	Team Dubrovnik	Daily report	10/08/1995
43	EUMM-#71038	Team Gospic	Daily report	10/08/1995
44	EUMM-#71042	Team Dubrovnik	Daily report	11/08/1995
45	EUMM-#71043	Team Gospic	Daily report	11/08/1995
46	EUMM-#71044	Team Dubrovnik	Daily report	12/08/1995
47	EUMM-#71045	Team Gospic	Daily report	12/08/1995
48	EUMM-#71046	Team Dubrovnik	Situation update	12/08/1995
49	EUMM-#71047	Team Dubrovnik (DI)	DELETED	12/08/1995
50	EUMM-#71048	Team Dubrovnik	Situation update	12/08/1995
51	EUMM-#71049	Team Dubrovnik	Situation update	12/08/1995
52	EUMM-#71050	Team Dubrovnik	Daily report	13/08/1995
53	EUMM-#71051	Team Dubrovnik	Situation update	13/08/1995
54	EUMM-#71052	Team Dubrovnik	Situation update	13/08/1995
55	EUMM-#71053	Team Gospic	Special report	13/08/1995
56	EUMM-#71054	Team Dubrovnik	Daily report	14/08/1995
57	EUMM-#71055	Team Dubrovnik	Daily report	15/08/1995
58	EUMM-#71056	Team Dubrovnik	Situation update	15/08/1995
59	EUMM-#71057	Team Dubrovnik	Daily report	16/08/1995
60	EUMM-#71058	Team Dubrovnik	Situation update	16/08/1995
61	EUMM-#71059	Team Dubrovnik	Daily report	17/08/1995
62	EUMM-#71060	Team Dubrovnik	DELETED	17/08/1995

63	EUMM-#71061	Team Dubrovnik	Daily report	18/08/1995
64	EUMM-#71063	Team Dubrovnik	Situation update	19/08/1995
65	EUMM-#71065	Team Dubrovnik	Situation update	19/08/1995
66	EUMM-#71069	Team Dubrovnik	Special report	21/08/1995
67	EUMM-#71070	RC Krin + Team Dubrovnik	DELETED	24/08/1995
68	EUMM-#71071	N2	DELETED	24/08/1995
69	EUMM-#71072	Team Dubrovnik	Itinerary - HOM 28 and 29 AUG 1995	25/08/1995
70	EUMM-#71073	Team Dubrovnik	HOM visit	25/08/1995
71	EUMM-#71074	Team Dubrovnik	Special report 21 AUG 1995	25/08/1995
72	EUMM-#71075	Team Dubrovnik	DELETED	22/08/1995
73	EUMM-#71076	Team Dubrovnik	HOM/CAR 26 AUG 1995	26/08/1995
74	EUMM-#71591	Team Gospic	Daily report	25/08/1995
75	EUMM-#71593	Team Gospic	Daily report	26/08/1995
76	EUMM-#71594	Team Gospic	Daily report	28/08/1995
77	EUMM-#71596	Team Gospic	Daily report	29/08/1995
78	EUMM-#71598	Team Gospic	Daily report	30/08/1995
79	EUMM-#71601	Team Gospic	Daily report	31/08/1995
80	EUMM-#71603	TN1 Korenica	Daily report	24/08/1995
81	EUMM-#71609	TN1 Korenica	Daily report	25/08/1995
82	EUMM-#71611	TN1 Korenica	Daily report	28/08/1995
83	EUMM-#71613	TN1 Korenica	Daily report	29/08/1995
84	EUMM-#71616	Team N2	Daily report	25/08/1995
85	EUMM-#71617	ECMM Team N2	Daily report	30/08/1995
86	EUMM-#71618	ECMM Team N2	Daily report	31/08/1995
87	EUMM-#71619	Team N3	Daily report	24/08/1995
88	EUMM-#71621	Team N3	Daily report	26/08/1995
89	EUMM-#71623	Team N3	Daily report	28/08/1995
90	EUMM-#71625	Team N3	Daily report	30/08/1995
91	EUMM-#71626	Team N3	Daily report	31/08/1995
92	EUMM-#71630	Team Split	Daily report	24/08/1995
93	EUMM-#71633	Team Split	Daily report	25/08/1995

94	EUMM-#71635	Team Split	Daily report	26/08/1995
95	EUMM-#71636	Team Split	Daily report	28/08/1995
96	EUMM-#71639	Team Split	Daily report	29/08/1995
97	EUMM-#72641	Team Dubrovnik (D1)	Situation report	4/08/1995
98	EUMM-#72642	Team Gospic	Daily report	3/08/1995
99	EUMM-#72643	Team Gospic	Daily report	24/08/1995
100	EUMM-#72644	Team Gospic	Daily report	1/08/1995
101	EUMM-#72645	Team Gospic	Daily report	2/08/1995
102	EUMM-#72646	TN1 Korenica	Daily report	1/08/1995
103	EUMM-#72647	TN1 Korenica	Daily report	3/08/1995
104	EUMM-#72648	TN1 Korenica	Daily report	4/08/1995
105	EUMM-#72649	TN1 Korenica	Daily report	8/08/1995
106	EUMM-#72650	TN1 Korenica	Daily report	9/08/1995
107	EUMM-#72651	TN1 Korenica	Daily report	10/08/1995
108	EUMM-#72652	TN1 Korenica	Daily report	11/08/1995
109	EUMM-#72653	TN1 Korenica	Daily report	12/08/1995
110	EUMM-#72654	Team N2	Daily report	24/08/1995
111	EUMM-#72655	Team Split	Daily report	1/08/1995
112	EUMM-#72656	Team Split	Daily report	4/08/1995
113	EUMM-#72657	Team Split	Daily report	5/08/1995
114	EUMM-#72658	Team Split	Daily report	7/08/1995
115	EUMM-#72659	HCC & Team Dubrovnik (D1)	Daily report	3/08/1995
116	EUMM-#72660	TN1 Korenica	Daily report	2/08/1995
117	EUMM-#72661	Team N3	Daily report	25/08/1995
118	EUMM-#72662	Team Split	Daily report	2/08/1995
119	EUMM-#72663	Team Split	Daily report	3/08/1995
120	EUMM-#72664	Team Split	Daily report	8/08/1995
121	EUMM-#72665	Team Split	Daily report	9/08/1995
122	EUMM-#72666	Team Split	Daily report	10/08/1995
123	EUMM-#72667	Team Split	Daily report	11/08/1995
124	EUMM-#72668	Team Split	Daily report	12/08/1995

125	EUMM-#72669	Team Dubrovnik	Daily report	5/08/1995
126	EUMM-#72670	Team N2	Daily report	1/08/1995
127	EUMM-#72671	Team N2	Daily report	2/08/1995
128	EUMM-#72672	Team N2	Daily report	9/08/1995
129	EUMM-#72732	Team Dubrovnik	Special report 21 AUG 1995 continued	21/08/1995
130	EUMM-#72733	Team Gospic	Daily report	18/08/1995
131	EUMM-#72735	Team Gospic	Daily report	22/08/1995
132	EUMM-#72737	Team Gospic	Daily report	17/08/1995
133	EUMM-#72738	Team Gospic	Daily report	23/08/1995
134	EUMM-#72739	TN1 Korenica	Daily report	21/08/1995
135	EUMM-#72740	TN1 Korenica	Daily report	22/08/1995
136	EUMM-#72741	Team N2	Daily report	17/08/1995
137	EUMM-#72742	Team N2	Daily report	22/08/1995
138	EUMM-#72744	Team N2	Daily report	23/08/1995
139	EUMM-#72745	Team N3	Daily report	17/08/1995
140	EUMM-#72746	Team N3	Daily report	22/08/1995
141	EUMM-#72747	Team N3	Daily report	23/08/1995
142	EUMM-#72748	Team Split	Daily report	22/08/1995
143	EUMM-#72750	Team Split	Daily report	18/08/1995
144	EUMM-#72753	Team Split	Daily report	21/08/1995
145	EUMM-#72755	Team Split	Daily report	23/08/1995
146	EUMM-#72757	TN1 Korenica	Daily report	16/08/1995
147	EUMM-#72759	TN1 Korenica	Daily report	17/08/1995
148	EUMM-#72760	TN1 Korenica	Daily report	18/08/1995
149	EUMM-#72761	TN1 Korenica	Daily report	23/08/1995
150	EUMM-#72762	Team N2	Daily report	18/08/1995
151	EUMM-#72763	Team N3	Daily report	16/08/1995
152	EUMM-#72765	Team N3	Daily report	18/08/1995
153	EUMM-#72766	Team Gospic	Daily report	16/08/1995
154	EUMM-#72770	Team N2	Daily report	16/08/1995
155	EUMM-#72772	TN1 Korenica	DELETED	16/08/1995

156	EUMM-#72773	Team N3	Daily report	21/08/1995
157	EUMM-#122483	RC Knin	Daily report	1/08/1995
158	EUMM-#122484	RC Knin	Daily report	2/08/1995
159	EUMM-#122485	RC Knin	DELETED	2/08/1995
160	EUMM-#122486	RC Knin	Daily report	3/08/1995
161	EUMM-#122488	RC Knin	Daily report	4/08/1995
162	EUMM-#122489	RC Knin	Daily report	5/08/1995
163	EUMM-#122490	RC Knin	Daily report	5/08/1995
164	EUMM-#122492	RC Knin	Daily report	6/08/1995
165	EUMM-#122493	RC Knin	SIT UPDATE AS REQUESTED BY DHOM OPS transmit	6/08/1995
166	EUMM-#122494	RC Knin	Daily report	7/08/1995
167	EUMM-#122495	RC Knin	Special report ACTIVITIES	4/08/1995
168	EUMM-#122496	RC Knin	Daily report	8/08/1995
169	EUMM-#122497	RC Knin	Daily report	9/08/1995
170	EUMM-#122498	RC Knin	Daily report	10/08/1995
171	EUMM-#122500	RC Knin	Daily report	11/08/1995
172	EUMM-#122501	RC Knin	Humanitarian Update	11/08/1995
173	EUMM-#122502	RC Knin	Daily report	12/08/1995
174	EUMM-#122504	RC Knin	WEEKLY ASSESSMENT AND ANALYSIS	13/08/1995
175	EUMM-#122505	RC Knin	Daily report	14/08/1995
176	EUMM-#122506	RC Knin	Daily report	16/08/1995
177	EUMM-#122507	RC Knin	WEEKLY ASSESSMENT AND ANALYSIS	16/07/1995
178	EUMM-#122508	RC Knin	Daily report	17/08/1995
179	EUMM-#122509	RC Knin	Daily report	18/08/1995
180	EUMM-#122510	RC Knin	DELETED	18/08/1995
181	EUMM-#122511	RC Knin	Daily report	19/08/1995
182	EUMM-#122513	RC Knin	Daily report	20/08/1995
183	EUMM-#122514	RC Knin	WEEKLY ASSESSMENT AND ANALYSIS	20/08/1995
184	EUMM-#122515	RC Knin	Daily report	21/08/1995
185	EUMM-#122516	RC Knin	Daily report	22/08/1995

186	EUMM-#122517	RC Knin	Daily report	23/08/1995
187	EUMM-#122518	RC Knin	DELETED	23/08/1995
188	EUMM-#122519	RC Knin	Daily report	24/08/1995
189	EUMM-#122521	RC Knin	Daily report	25/08/1995
190	EUMM-#122522	RC Knin	Daily report	25/08/1995
191	EUMM-#122524	RC Knin	Daily report	27/08/1995
192	EUMM-#122525	RC Knin	DELETED	27/08/1995
193	EUMM-#122526	RC Knin	WEEKLY ASSESSMENT AND ANALYSIS	27/08/1995
194	EUMM-#122527	RC Knin	Weekly Humanitarian Assessment	27/08/1995
195	EUMM-#122528	RC Knin	Daily report	28/08/1995
196	EUMM-#122529	RC Knin	Daily report	28/08/1995
197	EUMM-#122530	RC Knin	DELETED	28/08/1995
198	EUMM-#122531	HUMO	Daily Report	29/08/1995
199	EUMM-#122532	RC Knin	Daily report	29/08/1995
200	EUMM-#122533	RC Knin	DELETED	29/08/1995
201	EUMM-#122534	RC Knin	Daily report	30/08/1995
202	EUMM-#122535	RC Knin	Daily report	31/08/1995
203	EUMM-#122540	RC Knin	DELETED	26/08/1995
204	EUMM-#122543	RC Knin	Daily report	14/08/1995
205	EUMM-#122564	RC Knin	Daily report	26/08/1995

DELETED

COUNCIL OF
THE EUROPEAN UNION
The Secretary-General
Rue de la Loi/Wetstraat 175
B-1048 Bruxelles/Brussel
BELGIQUE/BELGIE

Fax no + 32 2 281 91 96

Sir,

By letter dated 9 September 2014, registered on 18 September 2014 by your Access to Documents Unit, I requested access to the following documents on the basis of Regulation (EC) No 1049/2001:

- The entire correspondence exchanged, from 7 December 2009 onwards, between the Secretary-General of the Council / High Representative and the International Criminal Tribunal for the Former Yugoslavia (Office of the Prosecutor and Trial Chamber) in connection with the "Prosecutor v Ante Gotovina, Ivan Čermak and Mladen Markač" case, as well as the documents other than reports drafted by the European Community Monitoring Mission, annexed to that correspondence.
- Reports by EU monitors present in the Knin area in Croatia from 1 August 1995 [sic] to 31 August 1995.

In your letter dated 9 October 2014, in response to my initial request of 9 September 2014, you told me that the first part of my request could only partially be met, and that the second part of my request was refused, except for partial access granted to eight daily reports, on the following grounds:

- The 40 documents identified as corresponding to the first part of my request could only partially be released to me. The General Secretariat is in a position to grant me access to all the correspondence written by the SG/HR, with the exception of the reports drafted by the EUMM, annexed to that correspondence. I am also granted full access to the correspondence without annexes, with the exception of the abovementioned reports and the personal data contained in document number 27, under Article 4(1)(b) of Regulation (EC) No 1049/2001 (protection of privacy of the individual). I am also granted partial access to the other documents, except for the parts protected by Article 4(1)(a) (protection of international relations), Article 4(2), second indent (protection of court proceedings) and Article 4(1)(b) (protection of personal data) of Regulation (EC) No 1049/2001.

- The 205 documents identified as corresponding to the second part of my request could not be released to me without putting at risk the international relations of the EU and its Member States with the region and undermining the protection of public security (Article 4(1)(a), first and third indents, of Regulation (EC) No 1049/2001). On the basis of Article 4(6) of the Regulation, you conclude that I may be granted access to the remaining parts of eight documents. The General Secretariat has refused this partial access to the other documents, on the grounds that this access would be of no use, since it would be limited to small fragments of documents.

Firstly, the documents relating to the correspondence exchanged between the Secretary-General/High Representative and the International Criminal Tribunal for the former Yugoslavia which you have indicated to me do not correspond to what I requested.

I requested access to correspondence dated **after 7 December 2009** and you have drawn up a list of correspondence all dated before that date.

Secondly, I reiterate my request for access to all the 205 reports by EU monitors present in the Knin area in Croatia from 1 August 1994 to 31 August 1995 which you have listed.

The documents which I am requesting date from August 1995 and are now 19 years old. This now represents a duration equal to two thirds of the maximum period permitted by Regulation No 1049/2001 (end of Article 4(7)). We should also remember that these documents relate to a conflict which ended 20 years ago, and that the situation has since returned to normal.

Moreover, Croatia joined the European Union on 1 July 2013, attesting to the Union's recognition of this stabilisation.

Your refusal of access therefore seems unfounded, since international relations and public security cannot be valid arguments in the current political context.

Finally, even when the exception under Article 4(2), second indent, applies, disclosure is still possible where "there is an overriding public interest" in it. That is indeed the case here.

In the light of these observations, I reiterate my request of 9 September 2014 pursuant to Article 7(2) of Regulation (EC) No 1049/2001.

[Complimentary close].