



Council of the
European Union

Brussels, 2 March 2015
(OR. en)

6522/15

INF 30
API 27

NOTE

From: General Secretariat of the Council
To: Working Party on Information
Subject: Public access to documents
- Confirmatory application No 06/c/01/15

Delegations will find attached:

- request for public access to documents attached to the application to the General Court in Case T-830/14; request registered by the Transparency and Access to documents unit of the General Secretariat of the Council on 22 January 2015 ([Annex 1](#));
- message sent by the GSC to the applicant dated 22 January 2015 (Annex 2);
- reply to the request for public access sent by the GSC on 9 February 2015 (Annex 3);
- confirmatory application dated 23 February 2015 and registered the same day (Annex 4).

DELETED

Your Ref: 2014/730/CFSP

Our Ref: DELETED

Date: 5th November 2014

FAO: Transparency/Access to documents unit
Council of the European Union
General Secretariat
DG C 1C
Rue de la Loi/Wetstraat 175
1048 Bruxelles/Brussel
BELGIQUE/BELGIË

SECRÉTARIAT GÉNÉRAL DU
CONSEIL DE L'UNION EUROPÉENNE
SGE15/00664
Reçu le 20 -01- 2015
DEST. PRINC. M. SCHIAVO
DEST. COPISTES
Service Juridique

AND BY FAX: +32 2 281 63 61 (3 pages)
AND BY EMAIL: sanctions@consilium.europa.eu

VERY URGENT
IMMEDIATE ATTENTION REQUIRED

Dear Sirs,

RE: DELETED Council implementing Decision 2014/730/CFSP of 20th October 2014 implementing Decision 2013/255/CFSP concerning restrictive measures against Syria ("the Decision") and Council Implementing Regulation (EU) no 1105/2014 of 20th October 2014 implementing Regulation (EU) No 36/2012 concerning restrictive measures in view of the situation in Syria ("the Regulation")

A. INTRODUCTION

1. We are the legal representatives of DELETED ("our client"), instructed to apply pursuant to Article 263 TFEU for the annulment of the above-mentioned Decision and Regulation.
2. Please direct all future communications to those dealing with this matter: DELETED
DELETED

B. BACKGROUND

3. We set out below requests for information and/or documents under Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents ("Regulation 1049/2001") and requests in relation to data protection under 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 ("Regulation 45/2001").

C. DISCLOSURE REQUIRED UNDER REGULATION 1049/2001

4. Pursuant to the right of access to documents in Regulation 1049/2001, we hereby request the following documents and/or information arising out of the reasons given in the Decision and Regulation for adding our client to the list in Annex II to Regulation (EU) No 36/2012:
- a. All documents and/or information which relate to our client.
 - b. All documents and/or information describing precisely the alleged "*covert shipments of oil to the Syrian regime*" which our client is alleged to have organised. Please specify precisely:
 - i. the particular shipments concerned;
 - ii. the "oil" products alleged to have been shipped;
 - iii. the particular shipments concerned;
 - iv. what was meant by the use of the term "covert";
 - v. how the alleged shipments were alleged to have been "covert";
 - vi. what was meant by "the Syrian regime"; *and*
 - vii. which element or elements of the so-called "Syrian regime" were alleged to have been the recipients of the shipments.
 - c. All documents and/or information describing precisely how the alleged shipments provided "*support to the Syrian regime*".
 - d. All documents and/or information describing precisely how the alleged shipments led to our client "*benefitting from that regime*".
 - e. All documents and/or information describing precisely how the alleged shipments led to our client "*benefitting from that regime*".
 - f. In each case please specify the source of the information and/or documentation and the date upon which it was received by the Council.
 - g. All documents and/or information relied on by the Council in assessing the accuracy of the documents and information referred to above.
 - h. All documents and/or information relied on by the Council in determining the nature and extent of the restrictions to be placed on our client, in particular in relation to any consideration of the proportionality of the restrictions.

D. REQUESTS UNDER REGULATION 45/2001

5. As regards our client's rights under Regulation 45/2001, we make the following requests:
- a. Pursuant to Article 12 of Regulation 45/2001, please confirm that data has been supplied to the Council relating to the applicant ("the data subject") from a person or persons other than the data subject.
 - b. Pursuant to Article 12 of Regulation 45/2001, please provide the data subject with the following information:
 - i. the identity of the controller;
 - ii. the purposes of the processing operation;
 - iii. the categories of data concerned;
 - iv. the recipients or categories of recipients;
 - v. the existence of the right of access to, and the right to rectify, the data concerning the data subject;
 - vi. the legal basis of the processing operation for which the data are intended;
 - vii. the time-limits for storing the data;

- viii. the origin of the data and whether the controller contends that it cannot disclose this information for reasons of professional secrecy; *and*
 - ix. such further information is necessary, having regard to the specific circumstances in which the data are processed, to guarantee fair processing in respect of data subject.
- c. Our client, the applicant/data subject requests the following under Article 13 of Regulation 45/2001:
- i. confirmation as to whether or not data related to it are being processed;
 - ii. information at least as to the purposes of the processing operation, the categories of data concerned, and the recipients or categories of recipients to whom the data are disclosed;
 - iii. communication in an intelligible form of the data undergoing processing and of any available information as to their source; *and*
 - iv. the logic involved in any automated decision process concerning data relating to the data subject.
- d. For the avoidance of doubt, the applicants/data subject wishes to have rectified under Article 14 of Regulation 45/2001 without delay inaccurate and incomplete personal data which it believes is held by the Council.
- e. The applicant/data subject requests under Article 15(1) of Regulation 45/2001 that the data held by the Council relating to it be blocked because their accuracy is contested by the data subject.

E. STRICT TIME LIMITS FOR URGENT ACTION

6. In view of the strict time limits imposed by Article 263 TFEU within which applications for annulment must be lodged at the General Court, we request that the documents/disclosure requested under Regulation 1049/2001 be sent to **DELETED** in machine-readable electronic format to the specific email addresses of:
- DELETED**
7. In respect of the requests made under Regulation 45/2001, please confirm that these requests will be addressed within the time limits specified in Regulation 1049/2001 and Regulation 45/2001.

Yours faithfully,

Electronically signed

DELETED

[E-mail message sent to the applicant on 22 January 2015, 09:39]

From: SECRETARIAT DGF Access
Sent: Thursday, January 22, 2015 09:39
To: **DELETED**
Subject: Ref. 15/0110-mi (request for public access to documents)

Dear Sirs,

In your application to the General Court in Case T-830/14, you attached a request for public access to Council documents pursuant to Regulation (EC) No 1049/2001 on public access to European Parliament, Council and Commission documents which you claim was sent to the Access to Documents Unit of the General Secretariat of the Council. The General Secretariat has only received this request as an annex to the said application. It has been registered on 22 January 2015 under reference number 15/0110.

You will receive a reply to your request within 15 working days.

Yours sincerely,

For the General Secretariat of the Council
Transparency and Access to Documents



Council of the European Union

General Secretariat

Directorate-General Communication and Document Management

Directorate Document Management

Transparency and Access to Documents Unit

Head of Unit

Brussels, 9 February 2015

DELETED

Ref. 15/0110-bd/mi

Request registered: 22.01.2015

Dear Sirs,

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

The General Secretariat has identified the following documents as being covered by your request:

1. 11875/14
2. 11875/14 ADD 1 DCL 1
3. 11877/14
4. 11877/14 ADD 1 DCL 1
5. 11975/14
6. 13191/14
7. 13191/14 COR 1
8. 13192/4
9. 13192/14 COR 1
10. 14121/14
11. 14121/14 ADD 1 DCL 1

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).

12. 14122/14
13. 14122/14 ADD 1 DCL 1
14. MD RELEX 264/14
15. MD RELEX 264/14 REV 1
16. MD RELEX 264/14 REV 2
17. MD RELEX 265/14
18. MD RELEX 265/14 REV 1
19. MD RELEX 265/14 REV 2
20. 14283/14
21. COREU 231/14
22. 2011 Annual report of Tri-Ocean Energy
23. Article by Reuters: "Insight: Syria casts net wide in search of oil deals"
24. Article by Reuters: "Exclusive - Assad's secret oil lifeline: Iraqi crude from Egypt"

You may have access to documents under reference numbers 1-13 and 22-24.

In addition, you may have access to the partially accessible version of documents under reference numbers 14-20.² However, I regret to inform you that full access to these documents cannot be granted for the reasons set out below. Furthermore, access cannot be granted to document under reference number 21 for the reasons set out below.

The documents under reference numbers 14-19 are all meeting room documents pertaining to the adoption of the Union's legislation imposing restrictive measures in view of the situation in Syria. The Council has checked each of these documents individually but found that public release of any of them would enable third countries to assess the differences between the proposals for sanctions and the final outcome. This would enable third countries to determine to what extent the Union is prepared to go with its restrictive measures policy. Revealing that information would be detrimental to the Union's ability to use restrictive measure to their maximum effect. For this reason, public access is refused under Article 4(1)(a), third indent (protection of the public interest as regards international relations) of Regulation 1049/2001.

Pursuant to Article 4(6) of the Regulation, the General Secretariat has assessed for each document whether any part of it would not fall within this exception and determined that this is the case for certain parts of the documents which may thus be released.

² Article 4(6) of Regulation (EC) No 1049/2001.

The document under reference number 20 is a "I/A" Item Note from the General Secretariat to the Permanent Representatives Committee and the Council relating to the adoption of the Council Implementing Decision implementing Decision 2013/255/CFSP concerning restrictive measures against Syria and the Council Implementing Regulation implementing Regulation (EU) No 36/2012 concerning restrictive measures in view of the situation in Syria.

Annex I to the document sets out draft responses to observations received from the lawyers of two persons whose statements of reasons the Council intends to amend. These draft responses contain both personal data of the persons whom the responses are addressed to and content which enables the identification of these persons. Disclosure of this information would undermine the protection of privacy and the integrity of the individuals in question, in particular in accordance with Community legislation regarding the protection of personal data. 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 Annex I to the document.

Furthermore, certain parts of Annex 1 contain information which relate to one on-going case and one closed case before the EU Courts concerning restrictive measures against Syria. Disclosure of those parts of the Annex would undermine the protection of the on-going court proceedings as well as future court proceedings on similar issues. Accordingly, also pursuant to Article 4(2), second indent, of Regulation (protection of court proceedings and legal advice), the General Secretariat is unable to grant you access to Annex I to the document.

Pursuant to Article 4(6) of the Regulation, the General Secretariat has assessed whether any part of this document would not fall within this exception. It has determined that this is the case for certain parts of the document which may thus be released.

The document under reference number 21 is a COREU with the number 231/14. This document is classified EU RESTRICTED, meaning that the release of the information contained in it could be disadvantageous to the interests of the European Union or of one or more of the Member States.³ It contains information relating to the activities of entities and individuals providing support to the Al Assad regime in Syria. Public disclosure of this document would allow the public, and hence the Syrian regime, to know what intelligence the EU possesses in relation to this issue. Public disclosure of this information would therefore be detrimental to the Union's efforts to ensure the effectiveness of the restrictive measures imposed on Syria. For this reason, public access is refused under Article 4(1)(a), third indent (protection of the public interest as regards international relations) of Regulation 1049/2001

³ Council Decision of 23 September 2013 on the security rules for protecting EU classified information. (2013/488/EU), Official Journal L 274, 15.10.2013, p. 1.

Pursuant to Article 4(6) of the Regulation, the General Secretariat has assessed whether any part of this document would not fall within this exception but determined that this is not the case.

You can ask the Council to review this decision within 15 working days of receiving this reply.⁴

Yours sincerely,

Jakob THOMSEN

Enclosures

⁴ Article 7(2) of Regulation (EC) No 1049/2001.
Council documents on confirmatory applications are made available to the public. According 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.

DELETED

Your Ref: 15/0110-bd/mi

Our Ref: DELETED

23rd February 2014

FAO: Mr Jakob Thomsen
Transparency and Access to Documents Unit
Directorate Document Management
Council of the European Union
Rue de la Loi/Wetstraat 175 – B- 1048 Bruxelles
Belgium / Belgie

And by email: access@consillium.europa.eu

Dear Sirs,

Re: YOUR REF: 15/0110-bd/mi

We write further to your letter dated 09th February 2015 and our request for public access to documents held by the Council of the European Union.

Thank you for confirming that you have in your possession documents covering our request. We note disclosure (partial and full) of some of the documents have been refused on various basis.

We request that your position be reviewed in light of the fact that full disclosure on all documents is necessary for our Client to protect its position.

We understand the request for a review must be made within 15 days; please therefore accept this letter as our application to request a review of your decision.

Please address your response and any future communications to DELETED
DELETED

Yours faithfully,

DELETED
