



Council of the  
European Union

Brussels, 5 March 2015  
(OR. en)

6391/15

INF 24  
API 21

**NOTE**

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From: General Secretariat of the Council  
To: Working Party on Information  
Subject: Public access to documents  
- Confirmatory application No 04/c/01/15

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Delegations will find attached:

- request for access to documents sent to the General Secretariat of the Council on 21 January 2015 and registered on 22 January 2015 ([Annex 1](#));
- reply from the General Secretariat of the Council dated 12 February 2015 ([Annex 2](#));
- confirmatory application dated 18 February 2015 and registered the same day ([Annex 3](#))

**[E-mail message sent to [access@consilium.europa.eu](mailto:access@consilium.europa.eu) on 21 January 2015 - 5:10 PM**

From: Eva Schram [mailto:ask+request-1702-7b2d1d70@asktheeu.org]

Sent: Wednesday, January 21, 2015 5:10 PM

To: SECRETARIAT DGF Access

Subject: access to information request - Mos Maiorum operational results

Dear Council of the EU,

Under the right of access to documents in the EU treaties, as developed in Regulation 1049/2001, I am requesting documents which contain the following information:

1. all the operational results of the Joint Operations "Mos Maiorum", which was carried out from 13-26 October 2014 and presided over by the Italian government, as mentioned in the document 11671/14 by the Council.
2. the operational results of previous Joint Operations held during the last Presidencies of the Council of the European Union, as mentioned on page 1 of document 11671/14 by the Council.

Yours faithfully,

Eva Schram



**Council of the European Union**

General Secretariat

Directorate-General Communication and Document Management

Directorate Document Management

Transparency and Access to Documents Unit

Brussels, 12 February 2015

Ms Eva Schram

Email: ask+request-1702-7b2d1d70@asktheeu.org

Ref. 15/0118-mj/dm

Request made on: 21.01.2015

Registered on: 22.01.2015

Dear Ms Schram,

Thank you for your request for access to documents of the Council of the European Union.<sup>1</sup>

Document **5474/15** was identified as corresponding to the first part of your request, i.e. the operational results of the Joint Operation "Mos Maiorum".

Documents **17816/10**, **6224/13**, **6224/13 ADD 1**, **6224/13 ADD 2** and **16045/13** were identified as corresponding to the second part of your request, i.e. "the operational results of previous Joint Operations held during last Presidencies of the Council of the European Union, as mentioned on page 1 of document 11671/14".

Please find attached document **17816/10** which contains the final report on Joint Operation HERMES.

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<sup>1</sup> 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).

Document **5474/15** is a note of 22 January 2015 from the Italian delegation to Delegations which contains the final report on Joint Operation "MOS MAIORUM".

Documents **6224/13**, **6224/13 ADD 1** and **6224/13 ADD 2** together set out a final report on Joint Police Operation APHRODITE, prepared by the Cyprus delegation and Frontex.

These documents contain sensitive information in relation to two joint operations that were held respectively in October 2014 and in October-November 2012, among others, details about the discovered practices of persons or groups involved in illegal immigration and the routes followed by such persons or groups to access the EU area. If released, this information could be misused to compromise the work of the competent law enforcement authorities. It would also jeopardize the results of similar operations in the future.

Full disclosure of these documents would therefore undermine the protection of the public interest as regards public security.<sup>2</sup> As a consequence, the General Secretariat is unable to accede to your request for full access.

However, pursuant to Article 4(6) of the Regulation, you may have access to those parts of documents **5474/15** and **6224/13** which are not covered by the above-mentioned exception.

We have also looked into the possibility of releasing parts of documents **6224/13 ADD 1 & 6224/13 ADD 2**.<sup>3</sup> However, as the exception to the right of access applies to their entire content, the General Secretariat is unable to give partial access.

Document **16045/13** is a Presidency note of 11 December 2013 to delegations setting out the final report on operation PERKÜNAS. This operation was initiated and organised by the State Border Guard Service at the Ministry of the Interior of the Republic of Lithuania and its main goal was to identify the link between illegal EU external border crossings and secondary movements of irregular migrants within the EU and the Schengen Area. Frontex contributed to the operation by supporting the Lithuanian Authority in collecting data and by making its Risk Analysis Unit available to prepare the chapter of the report concerning irregular migration at the EU external borders.

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<sup>2</sup> Article 4(1)(a), first indent, of Regulation (EC) No 1049/2001.

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

Pursuant to Article 4(6) of the Regulation, you may have access to the document except for those parts which reveal operational and tactical details of the operation, the detected modus operandi used for migrants smuggling and confidential information obtained from a third country.

If released, the information in the above-mentioned parts of the document could be misused to compromise the work of the competent law enforcement authorities. Disclosure of this information would also jeopardize the results of similar operations in the future. In addition, the information obtained confidentially from a third country would, if released, harm future cooperation with such country relating to information exchange on issues dealing with illegal immigration. This, in its turn, would jeopardise the EU's efforts to combat illegal immigration. Disclosure of the information in the above-mentioned parts of the document would thus undermine the protection of the public interest as regards public security and international relations.

Accordingly, pursuant to Article 4(1)(a), first and third indents, of the Regulation (protection of the public interest as regards public security and international relations), the General Secretariat is unable to grant you full access to this document.

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

Yours sincerely,

Jakob THOMSEN

Enclosures

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<sup>4</sup> 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.

**[E-mail message sent to [access@consilium.europa.eu](mailto:access@consilium.europa.eu) on 18 February 2015 - 3:57 PM**

From: Eva Schram [<mailto:ask+request-1702-7b2d1d70@asktheeu.org>]

Sent: Wednesday, February 18, 2015 3:50 PM

To: SECRETARIAT DGF Access

Subject: Internal review of access to information request - Mos Maiorum operational results

Dear Council of the EU,

Please pass this on to the person who conducts Freedom of Information reviews.

I am writing to request an internal review of Council of the EU's handling of my FOI request 'Mos Maiorum operational results'.

The Council of the EU refers to Article 4(1)(a) of Regulation No. 1049/2001 to indicate why full disclosure of the requested documents would undermine the the protection of the public interest as regards public security. The Council gives little evidence that this would be the case. I therefore ask for an internal review of this decision.

In addition, the Council refers to the same Article of the Regulation as concerns document 16045/13 and adds that disclosure of the full document would jeopardize future cooperation with a third country. The Council makes it no way clear which third country they mean, let alone in what way future cooperation could be harmed. I therefore ask for an internal review of this decision also.

A full history of my FOI request and all correspondence is available on the Internet at this address:  
[http://www.asktheeu.org/en/request/mos\\_maiorum\\_operational\\_results](http://www.asktheeu.org/en/request/mos_maiorum_operational_results)

Yours faithfully,

Eva Schram

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