



Council of the
European Union

Brussels, 3 July 2015
(OR. en)

10536/15

INF 123
API 64

NOTE

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

Delegations will find attached:

- request for access to documents registered by the General Secretariat of the Council on 22 May 2015 and an e-mail from the General Secretariat of the Council to the applicant ([Annex 1](#));
- replies from the General Secretariat of the Council dated 15 and 30 June 2015 ([Annex 2](#));
- confirmatory application dated 2 July 2015 and registered on 3 July 2015 ([Annex 3](#)).

[E-mail message sent to EEAS Access to Documents on 22 May 2015 - 3:17 pm]

From: **DELETED**

Sent: Friday, May 22, 2015 3:17 PM

To: EEAS ACCESS TO DOCUMENTS

Cc: SECRETARIAT DGF Access

Subject: Query re. my request number 2015/D048

Dear Sir/Madam

I am writing to you concerning my access to documents request number 2015/D048.

On 17 March last, I received a letter from Mr Claude Maerten regarding this request.

Mr Maerten informed me that my request had been forwarded to the General Secretariat of the Council as it held certain documents relevant to the topic of my request (EU aid to the West Bank and Gaza).

It is now more than two months since I received that letter. But I have still not heard anything from the General Secretariat.

For that reason, I would be grateful if you could advise me what to do and/or tell me who I should contact about this matter.

Thanks in advance and best wishes

DELETED

From: SECRETARIAT DGF Access

Sent: Friday, May 22, 2015 5:09 PM

To: **DELETED**

Subject: RE: Query re. my request number 2015/D048

Dear Mr **DELETED**,

Thank you for your message sent today 22 May 2015, addressed to the Access to documents service of the EEAS and a copy of which was sent to the Access to documents Unit of the General Secretariat of the Council.

The Access to documents service of the EEAS was in contact with the Access to documents Unit of the GSC following the receipt by the EEAS of your request for public access to documents dated 5 March 2015. The GSC informed the colleagues at the EEAS that the Council does not hold any documents matching your request relating to the briefing documents but that the Council does hold general files relating to the EU police support mission known as EUPOL-COPS in the West Bank and Gaza. The EEAS informed you of this with their letter dated 17 March 2015.

It seems however that there was a misunderstanding between the two services as to the follow-up of your request. The EEAS informed you that they have transferred your request to the GSC. We at the GSC however understood from the EEAS colleagues that they would ask you to address yourself to the Council/GSC. Not having heard anything from you since then, the GSC has so far not registered your request for public access.

We sincerely apologise for the misunderstanding due to which your request for public access was not registered by the GSC. It will be registered today, 22 May 2015, and we will do our utmost to be able to send you a reply as soon as possible.

Yours sincerely,

Transparency and Access to Documents



General Secretariat of the Council

Communication and Document Management

Document Management

Transparency and Access to Documents

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Disclaimer: The views expressed are solely those of the writer and may not be regarded as stating an official position of the Council of the EU

Clause de non-responsabilité: Les avis exprimés n'engagent que leur auteur et ne peuvent être considérés comme une position officielle du Conseil de l'UE



Council of the European Union

General Secretariat

Directorate-General Communication and Document Management

Directorate Document Management

Transparency and Access to Documents Unit

Brussels, 15 June 2015

Mr **DELETED**
Email: **DELETED**

Ref. 15/1387-mi-ADD1

Request registered on:

22.05.2015

Dear Mr **DELETED**,

Referring to your request for public access to Council documents, registered by the Access to documents unit of the General Secretariat of the Council on 22 May 2015, and to our letter dated 27 May 2015, the General Secretariat would like to indicate as follows:

The General Secretariat has continued¹ the examination of your request concerning general files prepared between 1 January 2004 and 1 January 2007 relating to the EU police support mission known as EUPOL COPPS in the Palestinian territories and can indicate the following:

Preliminary remark:

EU Classified Information (EUCI) is classified at the following levels, among others:²

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).

² Council Decision of 23 September 2013 on the security rules for protecting EU classified information (2013/488/EU), OJ L 274, 15.10.2013, p. 1.

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

You may have public access to document **15027/05**. You may also have access to the fully declassified version of document **15348/05 RESTREINT UE/EU RESTRICTED** which can be found in document **15348/05 DCL 1**.

The General Secretariat has also identified document **13526/05** to which you may have full public access.

Furthermore, please find attached a partially accessible version of document **13757/05**.³ However, I regret to inform you that full access cannot be given for the reasons set out below.

Document **13757/05** is a draft "I/A" Item Note from the General Secretariat to the Permanent Representatives Committee and the Council relating to the draft Council Joint Action on the European Union Police Mission for the Palestinian Territories, EUPOL COPPS. The document sets out the text of the draft Council Joint Action and the financial statement related to the expenditure of the mission.

The document has content which enables the identification of certain persons working for the mission. This is personal data within the meaning of Article 2(a) of Regulation (EC) No **45/2001**.⁴

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.⁵

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

³ Article 4(6) of Regulation (EC) No **1049/2001**.

⁴ 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 (OJ L 8, 12.1.2001, p. 1).

⁵ Article 8 of Regulation (EC) No **45/2001**.

consequence, the General Secretariat has to refuse access to those parts of the document which enable the identification of certain persons working for the mission.⁶

Moreover, if identified, the safety of the persons in question would be at risk. The mission performs its activities under particularly challenging circumstances. If the identity of the persons in question was known, they would run a high risk of attracting hostile attention. Full disclosure of the document would therefore undermine the protection of the public interest as regards public security. Also for this reason, the General Secretariat has to refuse access to those parts of the document which enable the identification of certain persons working for the mission.⁷

Document **13047/2/05 REV 2** is classified **RESTREINT UE/EU RESTRICTED**. This document sets out the draft concept of operations (CONOPS) for the EU Police Mission in the Palestinian territories (EUPOL COPPS) The CONOPS was elaborated by the relevant preparatory bodies of the Council in the light of the Council's agreement on the follow-on to the EU mission.

The document provides an assessment of the Palestinian Authority's police forces and their capabilities, as well as a number of internal assessments on the political context. Furthermore, it sets out a thorough analysis of the mission's infrastructure and methodologies, including finance, logistics, communications, legal requirements, training and core information on command and control of the operations.

Documents **13571/05** and **13571/1/05 REV 1** are also classified **RESTREINT UE/ EU RESTRICTED**. These documents set out the advice of the **Committee for Civilian Aspects of Crisis Management (CivCom)** on the draft Concept of Operations (CONOPS) for the EU Police Mission in the Palestinian territories (EUPOL COPPS). They reveal sensitive details of the on-going mission, internal assessments of the situation on the ground and strategic objectives of the EU vis-à-vis the operation.

Document **15053/1/05 REV 1** is also classified **RESTREINT UE/ EU RESTRICTED**. It sets out a draft Operational Plan (OPLAN) for the EU Police Mission in the Palestinian territories (EUPOL COPPS). It provides an assessment of the Palestinian Authority's police forces and their capabilities, as well as a number of internal assessments on the political context. Moreover, it sets out the mission's political and operational objectives as well as detailed plans for the proper functioning of the mission, its infrastructure and methodologies.

⁶ Article 4(1)(b) of Regulation (EC) No 1049/2001.

⁷ Article 4(1)(a), first indent, of Regulation (EC) No 1049/2001.

The General Secretariat considers that the information contained in the above-mentioned documents is of a strategic and operational nature. Disclosure of such sensitive information concerning this on-going mission would seriously undermine not only the proper functioning and outcome of this specific operation but also the functioning and outcome of other current and future operations, put at risk the staff deployed in the field and prejudice the EU's relations with the Palestinian authorities. As a consequence, the General Secretariat has to refuse public access to these documents.⁸

You may however have access to document **13047/2/05 REV 2 EXT 1**, the partially declassified version of document **13047/2/05 REV 2 RESTREINT UE/EU RESTRICTED**, and to document **15053/1/05 REV 1 EXT 1**, the partially declassified version of document **15053/1/05 REV 1 RESTREINT UE/ EU RESTRICTED**.

As to documents **13571/05** and **13571/1/05 REV 1**, although they contain parts of differing sensitivity, even the least sensitive parts are covered by the above-mentioned exceptions to the principle of transparency. Partial access pursuant to Article 4(6) of the Regulation is therefore not possible for these documents.

In addition to the documents mentioned in our letter dated 27 May 2015, the General Secretariat has identified nine Coreu messages as being covered by your request for public access. These Coreu messages set out minutes of the meetings of the **Political and Security Committee (PSC)** held in 2004 and 2005, i.e. at a time when PSC participated in the discussions concerning the preparation of EUPOL COPPS.

PSC minutes are set out in Coreu messages which are all classified **RESTREINT UE/EU RESTRICTED**. In the identified Coreus, the General Secretariat has only considered those parts of the text which relate to the preparation of EUPOL COPPS.

Following the examination of these documents, the General Secretariat has come to the conclusion that all nine Coreus can be partially declassified (i.e. the entirety of those parts of the text which relate to the preparation of EUPOL COPPS). You will find attached the partially declassified Coreus which have the following numbers:

- **SEC/1990/04 COR 1**

⁸ Article 4(1)(a), first and third indents, of Regulation (EC) No 1049/2001.

- SEC/0984/05 COR 1
- SEC/1328/05 COR 1
- SEC/1445/05 COR 1
- SEC/1942/05 COR 1
- SEC/2011/05 COR 1
- SEC/2126/05 COR 1
- SEC/2311/05 COR 1
- SEC/2494/05 COR 1

You can ask the Council to review this decision within 15 working days of receiving this reply.⁹

* * *

Moreover, in addition to the documents mentioned in our letter dated 27 May 2015, the General Secretariat has also identified documents **10220/05 RESTREINT UE/EU RESTRICTED** and **15340/05 RESTREINT UE/EU RESTRICTED**. Consultations concerning these documents are still on-going. You will receive a supplementary reply as soon as the consultations have been finalised.

Please also note that the General Secretariat is still in the process of examining certain files it has identified as possibly also being covered by your request for public access. We will send you a supplementary reply as soon as the examination of the remaining files has been finalised.

Yours sincerely,

Jakob THOMSEN

Enclosures

⁹ 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.



Council of the European Union
General Secretariat

Directorate-General Communication and Document Management
Directorate Document Management
Transparency and Access to Documents Unit

Brussels, 30 June 2015

Mr **DELETED**
Email: **DELETED**

Ref. 15/1387-mi-ADD2

Request registered on: 22.05.2015

Dear Mr **DELETED**,

Referring to your request for public access to Council documents, registered by the Access to documents unit of the General Secretariat of the Council on 22 May 2015, and to our letters dated 27 May and 15 June 2015, the General Secretariat would like to indicate as follows:

The General Secretariat has finalised¹⁰ the examination of your request concerning general files prepared between 1 January 2004 and 1 January 2007 relating to the EU police support mission known as EUPOL COPPS in the Palestinian territories and can indicate the following:

Preliminary remark:

EU Classified Information (EUCI) is classified at the following levels, among others:¹¹

¹⁰ 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).

¹¹ Council Decision of 23 September 2013 on the security rules for protecting EU classified information (2013/488/EU), OJ L 274, 15.10.2013, p. 1.

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

You may have public access to documents **12645/06** and **8069/07**.

Furthermore, partial declassification is possible for document **15340/05 RESTREINT UE/EU RESTRICTED**.¹² However, I regret to inform you that full access cannot be given for the reasons set out below.

Document **15340/05 RESTREINT UE/ EU RESTRICTED** sets out a draft Operational Plan (OPLAN) for the EU Police Mission in the Palestinian territories (EUPOL COPPS). It provides an assessment of the Palestinian Authority's police forces and their capabilities, as well as a number of internal assessments on the political context. Moreover, it sets out the mission's political and operational objectives as well as detailed plans for the proper functioning of the mission, its infrastructure and methodologies.

The General Secretariat considers that the information contained in this document is of a strategic and operational nature. Disclosure of such sensitive information concerning this on-going mission would seriously undermine not only the proper functioning and outcome of this specific operation but also the functioning and outcome of other current and future operations, put at risk the staff deployed in the field and prejudice the EU's relations with the Palestinian authorities. As a consequence, the General Secretariat has to refuse full public access to this document.¹³

You may however have access to document **15340/05 EXT 1**, the partially declassified version of document **15340/05 RESTREINT UE/ EU RESTRICTED**.

Regarding document **10220/05 RESTREINT UE/EU RESTRICTED**, I regret to inform you that public access cannot be given for the reasons set out below.

¹² Article 4(6) of Regulation (EC) No 1049/2001.

¹³ Article 4(1)(a), first and third indents, of Regulation (EC) No 1049/2001.

Document **10220/05 RESTREINT UE/EU RESTRICTED** sets out options for a follow-on for the EU Police Mission in the Palestinian territories (EUPOL COPPS). It reveals sensitive details of the on-going mission, internal assessments of the situation on the ground and of the Palestinian Authority's police forces and their capabilities as well as strategic objectives of the EU vis-à-vis the operation.

The General Secretariat considers that the information contained in the above-mentioned document is of a strategic and operational nature. Disclosure of such sensitive information concerning this on-going mission would seriously undermine not only the proper functioning and outcome of this specific operation but also the functioning and outcome of other current and future operations, put at risk the staff deployed in the field and prejudice the EU's relations with the Palestinian authorities. As a consequence, the General Secretariat has to refuse public access to this document.¹⁴

The General Secretariat has examined whether partial access to document **10220/05 RESTREINT UE/EU RESTRICTED** would be possible pursuant to Article 4(6) of the Regulation. However, it has concluded that all parts of the document are covered by the above-mentioned exceptions to the principle of transparency. Partial access is therefore not possible for this document.

Finally, the General Secretariat would like to point out that it does not hold documents issued by the mission itself. Following the launch of the European External Action Service (EEAS) in January 2011, all documents issued by CSDP missions were transferred from the Council to the EEAS.

Yours sincerely,

Jakob THOMSEN

Enclosures

¹⁴ Article 4(1)(a), first and third indents, of Regulation (EC) No 1049/2001.

[E-mail message sent to access@consilium.europa.eu on 2 July 2015 - 5:17 pm]

From: **DELETED**

Sent: Thursday, July 02, 2015 5:17 PM

To: SECRETARIAT DGF Access

Subject: Request for review of decision re. my access to documents request Ref. 15/1387-mi-ADD1

Dear Sir/Madam

I am writing to request that the Council of the European Union review its recent decision not to grant me access to certain documents relating to the EU's policing mission in the occupied West Bank. The reference number for my access to documents request cited in previous messages I have received from the Council is Ref. 15/1387-mi-ADD1.

I believe that there is an overriding public interest in disclosing the documents I requested. To the best of my knowledge, the mission in question is the EU's first security operation in the occupied West Bank or Gaza. As it is financed by European taxpayers and the EU has obligations to ensure that international law is respected, it is surely vital that concerned individuals are allowed to scrutinise how the mission is being conducted. To ensure that this occurs, I believe that the EU needs to guarantee full transparency.

For that reason, I respectfully request that I be granted access to the documents in question in their entirety.

I would be grateful if you could confirm receipt of this message.

Thanks in advance and best wishes

DELETED