



Council of the  
European Union

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Eingelangt am 18/07/19

Brussels, 18 July 2019  
(OR. en)

11332/19

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API 91

#### NOTE

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From:	General Secretariat of the Council
To:	Working Party on Information
Subject:	Public access to documents - Confirmatory application No 21/c/01/19

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Delegations will find attached the:

- requests 19/1483 and 19/1484 for access to documents sent to the General Secretariat of the Council on 20 June 2019 and registered on the same day (Annex 1);
- joint reply from the General Secretariat of the Council dated 11 July 2019 (Annex 2);
- confirmatory application dated 17 July 2019 and registered on the same day (Annex 3).

[E-mail message sent to [access@consilium.europa.eu](mailto:access@consilium.europa.eu) on 20 June 2019 - 11:44 using the electronic form available in the Register application]

Title/Gender: **DELETED**

Family Name: **DELETED**

First Name: **DELETED**

E-Mail: **DELETED**

Occupation: Media

On behalf of:

Address:

Telephone:

Mobile:

Fax:

Requested document(s): Military Advice on EUNAVFOR MED Op Sophia monitoring ashore in Libya

ST 8665 2019 INIT

1st preferred linguistic version: EN - English

2nd preferred linguistic version:

[E-mail message sent to [access@consilium.europa.eu](mailto:access@consilium.europa.eu) on 20 June 2019 - 11:45 using the electronic form available in the Register application]

Title/Gender: **DELETED**

Family Name: **DELETED**

First Name: **DELETED**

E-Mail: **DELETED**

Occupation:

On behalf of:

Address: **DELETED**

Telephone:

Mobile:

Fax:

Requested document(s): European Union Integrated Border Management Assistance Mission in Libya (EUBAM Libya) Six-Monthly Mission Report 23 August 2018 to 22 February 2019  
ST 7418 2019 INIT

1st preferred linguistic version: EN - English

2nd preferred linguistic version:

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**Council of the European Union**

General Secretariat

Directorate-General Communication and Information - COMM

Directorate Information and Outreach

Information Services Unit / Transparency

*Head of Unit*

Brussels, 11 July 2019

**DELETED**

Email: **DELETED**

Ref. 19/1483 + 19/1484-vl/ns

Requests made on: 20.06.2019

Dear **DELETED**,

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

I regret to inform you that access to documents **7418/19** and **8665/19** cannot be given for the reasons set out below.

Document **7418/19** is a working document drawn up by the European External Action Service (EEAS) for the Political and Security Committee (PSC) concerning the European Union Integrated Border Management Assistance Mission in Libya (EUBAM Libya). It contains the six-monthly mission report from 23 August 2018 to 22 February 2019.

It is a classified document, bearing the classification "RESTREINT UE". This means that the unauthorised disclosure of its contents could be disadvantageous to the interests of the European Union or of one or more of its Member States.<sup>2</sup>

Release of the detailed analysis, lessons learned and recommendations contained in this document would hamper the EU's integrated approach in assisting the third country concerned and its operational focus on border management, law enforcement and criminal justice.

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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).

<sup>2</sup> 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.

Moreover, the requested document contains key information regarding Libyan authorities in the fields of the Mission's mandate, including sensitive data and assessments on the Libyan capacities, which are relevant for the conduct of the EUBAM Libya mission, which operates in a notoriously very delicate political geo-political environment, both at local and international level.

Furthermore, its disclosure could seriously compromise the security of the EU mission staff to be deployed to Libya, especially considering the highly problematic security conditions in the country.

Finally, release of the assessments, observations and recommendations contained in this document would have a negative impact on the relations between the European Union and Libya and other countries of the MENA region, as well as on the whole integrated approach being followed to coordinate the implementation of the mission in cooperation with all the EU's international partners.

Consequently, access to this document cannot be granted.<sup>3</sup>

Document **8665/19**, drawn up by the EEAS for the PSC and for the EU Military Committee, contains the military advice on EUNAVFOR MED Operation Sophia monitoring ashore in Libya.

Like document **7418/19**, also this document is bearing the classification "RESTREINT UE", which means that its unauthorised disclosure could be disadvantageous to the interests of the Union or of one or more of its Member States.<sup>2</sup>

This document provides an assessment and a set of recommendations and guidelines on different procedural aspects of the capacity building mechanisms (in particular, focusing on the staff engaged in the field) for an efficient and effective implementation of the monitoring mission concerned, that is taking place in a very difficult and complex military and political environment.

Given its sensitive content, its disclosure could cause prejudice to the entire operation insofar it would put into danger the lives of the deployed EU military and civilian personnel and compromise the entire operation. Therefore, its release would undermine the protection of public interest with regard to defence and military matters and international relations.

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<sup>3</sup> Article 4(1)(a), first, second and third indent of Regulation (EC) No **1049/2001**.

Consequently, access to this document cannot be granted.<sup>4</sup>

We have also looked into the possibility of releasing parts of these documents<sup>5</sup>. However, as the information therein contained forms an inseparable whole, the General Secretariat is unable to give partial access.

You can ask the Council to review this decision within 15 working days of receiving this reply (confirmatory application).<sup>6</sup>

Yours sincerely,

Paulo VIDAL

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<sup>4</sup> Article 4(1)(a), second and third indent of Regulation (EC) No 1049/2001.

<sup>5</sup> Article 4(6) of Regulation (EC) No 1049/2001.

<sup>6</sup> Article 7(2) of Regulation (EC) No 1049/2001.

Council documents on confirmatory applications are made available to the public. Pursuant to data protection rules at EU level (Regulation (EU) No 2018/1725, 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 17 July 2019 - 3:07]

**From:** **DELETED**

**Sent:** Wednesday, July 17, 2019 3:07 PM

**To:** TRANSPARENCY Access to documents (COMM) <Access@consilium.europa.eu>

**Subject:** Re: Ref. 19/1483 + 19/1484-vl/ns

Thank you for your reply.

I am writing to request a review of the decision to refuse access to the documents requested.

Kind regards,

**DELETED**

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