



Council of the
European Union

Brussels, 31 October 2019
(OR. en)

13648/19

INF 298
API 157

NOTE

From: General Secretariat of the Council
To: Working Party on Information
Subject: Public access to documents
- Confirmatory application No 36/c/01/19

Delegations will find attached the:

- request for access to documents sent to the General Secretariat of the Council on 17 September 2019 and registered on the same day (Annex 1);
- reply from the General Secretariat of the Council dated 29 October 2019 (Annex 2);
- confirmatory application dated 30 October 2019 and registered on the same day (Annex 3).

[E-mail message sent to access@consilium.europa.eu on 17 September 2019 - 16:09 using the electronic form available in the Register application]

Title/Gender: **DELETED**

Family Name: **DELETED**

First Name: **DELETED**

E-Mail: **DELETED**

Occupation: **DELETED**

On behalf of:

Address:

Telephone:

Mobile:

Fax:

Requested document(s): Hello,

I would like to request full or partial access to the following documents:

- ST 14149 2017 INIT
- ST 12347 2017 INIT
- ST 6440 2018 INIT
- ST 14312 2018 INIT

Thank you for your help. Kind regards,

1st preferred linguistic version: EN - English

2nd preferred linguistic version: ES - Spanish



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, 29 October 2019

DELETED

Email: **DELETED**

Ref. 19/1994-vl/jg

Request made on: 17.09.2019

Deadline extension: 08.10.2019

Dear **DELETED**,

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

I regret to inform you that access to documents **12347/17**, **14149/17**, **6440/18** and **14312/18** cannot be given for the reasons set out below.

Documents **12347/17** and **14149/17** are bearing the classification

"RESTREINT UE/EU RESTRICTED", which means that their unauthorised disclosure could be disadvantageous to the interests of the Union or of one or more of its Member States.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.

Document **12347/17** is a Note from the EU Counter-Terrorism Coordinator to the MS delegations focusing on strengthening military, law enforcement and judicial information exchange in counter-terrorism.

This document concerns sensitive counter-terrorism issues that require relations of trust with third parties, containing information with operational implications on military matters and on public security. It also sets out recommendations for the way forward, based on comments entered by the institutional and MS' authorities.

If released to the public, the information contained in this documents could be used by persons or organisations involved in terrorist activities to hamper the EU and international efforts to combat this type of crimes.

Document **14149/17**, drawn up by the European External Action Service (EEAS) for the **Political and Security Committee (PSC)** and the **European Union Military Committee (EUMC)**, contains the Military Advice on the abovementioned Note "Strengthening military, law enforcement and judicial information exchange in counter-terrorism" as well as on enhancing cooperation between CSDP Missions/Operations and Justice and Home Affairs (JHA) Agencies.

This document discusses, among others, situational awareness, evidence collection, forensic and data protection issues, and operational implications to all military operations in this field. If released to the public, this sensitive information could be used by hostile entities to seriously undermine security in the ongoing EU's missions, destabilise ongoing military activities and cooperation and relations among the key players.

Disclosure of documents **12347/17** and **14149/17** would therefore undermine the protection of the public interest as regards international relations, military matters and public security. As a consequence, the General Secretariat has to refuse access.³

Document **6440/18** is a joint Note from the European Commission and the EEAS focusing on a Crime Information Cell Pilot Project, aiming to identify challenges and opportunities for the exchange of information between EUNAVFOR MED Operation Sophia and JHA Agencies.

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

This note describes the possibilities for enhancing cooperation and information sharing between CSDP missions/operations and JHA agencies.

It contains a proposal for a pilot project providing management, coordination-related and operational details that, if released to the public, could be used to cause prejudice to the EU's efforts in detecting and countering illegal activities.

Disclosure of document **6440/18** would therefore undermine the protection of the public interest as regards public security and defence and military matters. As a consequence, the General Secretariat has to refuse access to this document.⁴

Document **14312/18** contains a final report on the abovementioned Crime Information Cell Pilot Project drawn up by the General Secretariat for the **Political and Security Committee (PSC)**.

The requested document concerns an ongoing military operation and an operation against the illicit trafficking of persons, weapons and oil.

Its content deals with operational processes, procedures and military and police activities relating to very serious criminal, terrorist and security threats to the EU and its citizens.

Disclosure of the sensitive information contained in this document would jeopardize the EU's public security, the military and defence interests of the EU and its Member States, as well as their international relations, as hostile organizations / entities could use it to seriously jeopardise the EU's action on the ground.

The release of document **14312/18** to the public would therefore undermine the protection of the public interest with regard to the public security, defence and military affairs of the EU as well as the international relations of the EU and its Member States. Therefore, the General Secretariat must refuse access to this document.⁵

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

⁵ Article 4(1)(a), first, second and third indent of Regulation (EC) No 1049/2001.

We have also looked into the possibility of releasing parts of documents **14149/17**, **12347/17**, **6440/18** and **14312/18**.⁶ However, as the exceptions to the right of access apply to their entire content, 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).⁷

Yours sincerely,

Fernando FLORINDO

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

⁷ 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.

From: **DELETED**

Sent: Wednesday, October 30, 2019 2:27 PM

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

Subject: Re: Ref. 19/1994-vl/jg

Hello,

After thoroughly reading the reasons put forward not to disclose the documents, I would like to start a confirmatory application in regards to the following documents:

- Document 14149/17: partial access should be studied in regards to the sections of the document addressing the enhanced cooperation between CSDP Missions/Operations and Justice and Home Affairs (JHA) Agencies, which might not compromise security interests.
- Document 6440/18 partial access should be studied in regards to the sections of the document addressing the possibilities for enhancing cooperation and information sharing between CSDP missions/operations and JHA agencies, which should not cause prejudice to the EU's efforts in detecting and countering illegal activities.
- Document 14312/18 same reason as for document 6440/18.

Thank you. Kind regards,
