



Council of the
European Union

110471/EU XXVII. GP
Eingelangt am 24/08/22

Brussels, 24 August 2022
(OR. en)

11840/22

INF 139
API 75

NOTE

From:	General Secretariat of the Council
To:	Delegations
Subject:	Public access to documents - Confirmatory application No 14/c/01/22

Delegations will find attached:

- the request for access to documents sent to the General Secretariat of the Council on 8 February 2022 and registered the same day (Annex 1);
- the reply from the General Secretariat of the Council dated 8 August 2022 (Annex 2);
- the confirmatory application dated 22 August 2022 and registered on the same day (Annex 3).

[E-mail message sent to access@consilium.europa.eu on Tuesday 8 February, 2022 09:24]

From: document-request@consilium.europa.eu <document-request@consilium.europa.eu>

Sent: mardi 8 février 2022 09:24

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

Subject: Consilium - Electronic Request for Access to documents [GERMAN]

Mr

Family name

DELETED

First name

DELETED

Email address

DELETED

Occupation

Academia

On behalf of

Own research

Full postal address

DELETED

Telephone**DELETED****Mobile telephone****Fax****Requested document(s)**

ST 13802 2016 ADD 1 - 28.04.2017, Amended Mission Plan EUTM RCA – Addendum.

ST 13802 2016 COR 1 - 28.04.2017, Amended Mission Plan EUTM RCA – Corrigendum.

ST 13802 2016 INIT - 27.10.2016, Amended Mission Plan EUTM RCA.

ST 11104 2018 INIT - ‘I/A’ ITEM NOTE 16.07.2018, EUTM RCA Mission - extension – Decision.

ST 10432 2016 REV 1 - ‘I/A’ ITEM NOTE 07.07.2016, Draft Council Decision on the launch of the European Union CSDP Military Training Mission in the Central African Republic (EUTM RCA) – Adoption.

ST 10432 2016 INIT - ‘I/A’ ITEM NOTE 27.06.2016, Draft Council Decision on the launch of the European Union CSDP Military Training Mission in the Central African Republic (EUTM RCA) – Adoption.

ST 10273 2016 INIT - PROPOSAL 14.06.2016, Proposal of the High Representative of the Union for Foreign Affairs and Security Policy to the Council for a Council Decision on the launch of the European Union military training mission in the Central African Republic (EUTM RCA).

ST 10105 2016 REV 1 - 'I/A' ITEM NOTE 14.06.2016, Draft Council Decision on the signing and conclusion, on behalf of the Union, of the Agreement in the form of an Exchange of Letters between the European Union and the Central African Republic on the status of the European Union CSDP Military Training Mission in the Central African Republic (EUTM RCA) – Adoption.

ST 10105 2016 INIT - 'I/A' ITEM NOTE 10.06.2016, Draft Council Decision on the signing and conclusion, on behalf of the Union, of the Agreement in the form of an Exchange of Letters between the European Union and the Central African Republic on the status of the European Union CSDP Military Training Mission in the Central African Republic (EUTM RCA) – Adoption.

ST 9796 2016 INIT - PROPOSAL 02.06.2016, Proposal from the High Representative of the Union for Foreign Affairs and Security Policy to the Council for a Draft Council Decision on the conclusion on behalf of the Union of the Agreement in the form of an Exchange of Letters between the European Union and the Central African Republic on the status of the European Union CSDP Military Training Mission in the Central African Republic (EUTM RCA).

ST 6951 2016 INIT - LEGISLATIVE ACTS AND OTHER INSTRUMENTS 12.04.2016, COUNCIL DECISION on a European Union CSDP Military Training Mission in the Central African Republic (EUTM RCA).

CM 1902 2020 REV 1 - WRITTEN PROCEDURE 23.03.2020, WRITTEN PROCEDURE for the adoption of: Council Decision concerning restrictive measures in view of the situation in Bosnia and Herzegovina - renewal Council Decision on a European Union military mission to contribute to the training of the Malian Armed Forces (EUTM Mali) - mandate extension.

CM 1902 2020 REV 1 COR 1 - WRITTEN PROCEDURE 23.03.2020, WRITTEN PROCEDURE for the adoption of: Council Decision concerning restrictive measures in view of the situation in Bosnia and Herzegovina - renewal Council Decision on a European Union military mission to contribute to the training of the Malian Armed Forces (EUTM Mali) - mandate extension.

CM 1902 2020 INIT - WRITTEN PROCEDURE 20.03.2020, WRITTEN PROCEDURE for the adoption of Council Decision and Implementing Regulation concerning restrictive measures in view of the situation in Nicaragua Council Decision concerning restrictive measures in view of the situation in Bosnia and Herzegovina - renewal Council Decision on a European Union military mission to contribute to the training of the Malian Armed Forces (EUTM Mali) - mandate extension.

ST 8328 2018 INIT - 'I/A' ITEM NOTE 27.04.2018, EUTM Mali: extension of mandate and reference amount - Decision.

ST 7499 2018 INIT - PROPOSAL 26.03.2018, Proposal of the High Representative of the Union for Foreign Affairs and Security Policy to the Council for a Council Decision amending and extending Council Decision 2013/34/CFSP on a European Union military mission to contribute to the training of the Malian Armed Forces (EUTM Mali).

ST 6374 2016 INIT - PROPOSAL 22.02.2016, Proposal of the High Representative of the Union for Foreign Affairs and Security Policy to the Council for a Council Decision amending and extending Council Decision 2013/34/CFSP on a European Union military mission to contribute to the training of the Malian Armed Forces (EUTM Mali).

ST 7951 2014 INIT - LEGISLATIVE ACTS AND OTHER INSTRUMENTS 01.04.2014, Agreement between the European Union and the Swiss Confederation on the participation of the Swiss Confederation in the European Union military mission to contribute to the training of the Malian Armed Forces (EUTM MALI).

ST 7950 2014 INIT - LEGISLATIVE ACTS AND OTHER INSTRUMENTS 01.04.2014, COUNCIL DECISION on the signing and conclusion of the Agreement between the European Union and the Swiss Confederation on the participation of the Swiss Confederation in the European Union military mission to contribute to the training of the Malian Armed Forces (EUTM Mali).

ST 16910 2013 INIT - LEGISLATIVE ACTS AND OTHER INSTRUMENTS 10.12.2013,
COUNCIL DECISION authorising the opening of negotiations for a Participation Agreement
between the European Union and the Swiss Confederation on the participation of the Swiss
Confederation in the European Union military mission to contribute to the training of the Malian
armed forces (EUTM Mali).

ST 17247 2013 INIT - 'I/A' ITEM NOTE 03.12.2013, Council Decision authorising the opening of
negotiations for the participation agreement between the European Union and the Swiss
Confederation on its participation in the European Union military mission to contribute to the
training of the Malian armed forces in Mali (EUTM Mali) – adoption.



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, 8 August 2022

DELETED

Email: **DELETED**

Ref. 22/0249-vl/vk

Request made on: 08.02.2022

Deadline extensions: 01.03.2022 and 22.03.2022

Dear **DELETED**,

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

Please accept our apologies for the delay in completing the examination of the set of documents concerned by your request.

The delay was caused by the large number of requests handled at the same time by our service as well as by the logistic constraints experienced during the pandemic.

As a result of our internal consultations, please find enclosed the following documents:

- the full text of the following documents: **ST 11104/18, ST 10432/16 + REV 1, ST 10273/16, ST 8328/18, ST 7499/18, ST 10105/16 + REV 1, ST 6951/16 + COR 2, ST 6374/16, ST 7951/14, ST 7950/14, ST 16910/13 and CM 1902/20 REV 1 COR 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).

- a partially accessible version² of documents **ST 9796/16**, **ST 17247/13** and **CM 1902/1/20 REV 1**. Regrettably, full access to these documents cannot be given for the reasons here below.

Document **ST 9796/16** contains a draft proposal by the High Representative of the EU for Foreign Affairs and for the Security Policy, submitted in view of the Council adoption of a Decision on the conclusion, on behalf of the Union, of the Agreement in the form of an Exchange of Letters between the EU and the Central African Republic on the status of the EU CSDP Military Training Mission in the Central African Republic (EUTM RCA).

You may have access to its cover pages (the Council cover page + page 1 of the Annex) as well as to pages 2 to 4 of the Annex containing the text of the Council draft Decision and the cover page of the exchange of letters concerned.

Regrettably, pages 5 and 6 of the Annex cannot be disclosed, since their release to the public would cause prejudice to public interest as regards international relations.³

Document **ST 17247/13** is an I/A Item Note to Coreper/Council drawn up in view of the adoption of the Decision of the Council authorising the opening of negotiations for the participation agreement between the European Union and the Swiss Confederation on its participation in the EU military mission to contribute to the training of the Malian armed forces in Mali (EUTM Mali).

You may have access to its first three pages that describe the procedural context. Regrettably, pages 4 and 5 of the document cannot be disclosed, since they contain the details of the recommendation to the Council to authorise the High Representative to open negotiations with the Swiss Confederation. Given its confidential nature, if released to the public, these parts of the content would undermine EU's international relations.³

Document **CM 1902/1/20 REV 1** is the revised version of the abovementioned document **CM 1902/20 INIT**.

Owing to a technical error, the first of the two concluding sentences at page 2 of this document contains, after the reference to the deadline for the delegations' answers, a wrong reference to another file that, if released to the public, would cause misperceptions and misunderstanding and possibly undermine EU's international relations. Consequently, access to that reference must be refused.³

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

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

However, you may have access to remaining parts of the abovementioned three documents, since they are not covered by any of the exception to public access.

Finally, we regret to inform you that documents **ST 13802/16 + ADD 1 + COR 1** and **CM 1902/20 INIT** cannot be released for the reasons here below.

Documents **ST 13802/16 + ADD 1 + COR 1** bear the classification mark "**RESTREINT UE/EU RESTRICTED**", which means that the unauthorised disclosure of their contents could be disadvantageous to the interests of the European Union or of one or more of its Member States.⁴

They are documents drawn up by the European External Action Service containing the Amended Mission Plan for the abovementioned Military Training Mission EUTM RCA. Having due regard to the outcome of our consultation with the services responsible for this topic, regretfully we cannot grant access to their content as it could be used by hostile entities to cause prejudice to public interest as regards public security, defence and military matters and international relations.

Consequently, access to these three documents must be refused.⁵

Document **CM 1902/20 INIT** contains a communication launching the written procedure for the adoption of the following acts:

- a Decision and Implementing Regulation concerning restrictive measures in view of the situation in Nicaragua
- a Decision concerning restrictive measures in view of the situation in Bosnia and Herzegovina (renewal)
- a Decision on a EU military mission to contribute to the training of the Malian Armed Forces (EUTM Mali) (mandate extension).

This document contains preliminary information on the procedure for adoption of one of the acts concerned, which was subsequently amended by the REV 1 and REV 1 COR 1 of doc. **CM 1902/20** (documents respectively partially and fully released with this letter).

If released to the public, this INIT obsolete and incorrect version could cause misperceptions and misunderstanding. Consequently, access to this document must be refused in its entirety, as it possibly undermine EU's international relations. Consequently, access must be refused.³

⁴ 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.

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

We have also examined the possibility to release parts of these four documents.⁶ However, as the information contained therein forms an inseparable whole, regretfully partial access cannot be granted.

Pursuant to Article 7(2) of Regulation (EC) No 1049/2001, you may ask the Council to review this decision within 15 working days of receiving this reply. Should you see the need for such a review, you are invited to indicate the reasons thereof.

Yours sincerely,

Fernando FLORINDO

Enclosures: 18

Link to documents: <https://we.tl/t-nZlWXcc1Pz>

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

[E-mail message sent to access@consilium.europa.eu on Monday, 22 August, 2022 11:51]

From: **DELETED**

Sent: lundi 22 août 2022 11:51

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

Subject: AW: Ref. 22/0249-vl/vk

Dear sir or madam,

I would like to cordially thank you for providing access to the requested documents.

Pursuant to Article 7(2) of Regulation (EC) No 1049/2001, I would like to ask the Council to review the decision not provide access to Documents ST 13802/16 + ADD 1 + COR 1. Despite the acknowledged need for protection of matters regard public security, defence, military matters and international relations, the requested documents refer to the period from 2016-2018. Two missions plans and several rounds of amendments and additions to them have been adopted since and thus the risk for the ongoing CSDP mission remains limited. Several actions planned in the mission plan, such as the launch of Phase 2a of the EUTM RCA Mission Plan – extension of training and education activities to BOUAR - have been executed in the meanwhile and are therefore - in a general manner - not classified any longer.

The mission plan is central to the research for my dissertation on the governance of non-executive CSDP missions. Even if for the protection of ongoing missions and operations, the full document esp. with regards to methods and tactical procedures cannot be disclosed, a redacted version with information on actors involved and exchanges with host country authorities would still be very valuable to the research and public interest.

Thank you very much for your consideration.

Best regards,

DELETED
