



Brussels, 5 September 2025
(OR. en)

12547/25

INF 156
API 96

NOTE

From:	General Secretariat of the Council
To:	Delegations
Subject:	Public access to documents - Confirmatory application N° 23/c/01/25

Delegations will find attached:

- the request for access to documents sent to the General Secretariat of the Council on 11 July 2025 and registered on the same day (Annex 1);
- the reply from the General Secretariat of the Council dated 11 August 2025 (Annex 2);
- the confirmatory application dated 28 August 2025 and registered on the same day (Annex 3).

From: **DELETED**

Sent: vendredi 11 juillet 2025 09:01

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

Subject: Options paper [#340307]

Dear Council of the European Union,

Under the right of access to documents in the EU treaties, as developed in Regulation 1049/2001, I hereby request access to the following:

All documents relating to the options paper on potential EU sanctions on Israel, expected to be submitted by High Representative Kaja Kallas to member state ambassadors in the Council by Friday, 11 July 2025 as reported by EUobserver (<https://euobserver.com/agenda/ar49e2d791>). This includes, but is not limited to:

The options paper itself (all versions and drafts), Briefing and preparatory materials, Internal and inter-institutional correspondence, Member-state comments, positions, or reactions, Meeting notes, agendas, minutes, or summaries concerning the paper, Any related follow-up documents or communications.

All records of today's Foreign Affairs Council (FAC) meeting in Brussels, where the options paper was discussed. This should encompass:

Meeting agenda(s),

Minutes or full transcripts,

Notes, annotations or summaries on the discussion, Position statements by member-state representatives, Any other relevant outcomes or proceedings records.

If you require further clarification or precision concerning this request, please feel free to contact me.

Thank you in advance.

Yours faithfully,

DELETED



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 August 2025

Ms **DELETED**
Email: **DELETED**

Ref. 25/2029

Request made on: 11.07.2025
Deadline extension: 04.08.2025

Dear Ms **DELETED**,

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

We have identified documents **11461/25** and **11318/25 ADD 1** as covered by your request.

Please find attached document **11318/25 ADD 1**.

However, I regret to inform you that access to document **11461/25** cannot be given for the reasons set out below.

Document **11461/25** is a note of 10 July 2025 from the EEAS to Coreper/Council, containing an EEAS document with the title “*Inventory of possible follow-up measures for EU-IL Association Agreement*”.

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).

This document is classified at the classification level "RESTREINT UE/EU RESTRICTED", meaning 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.²

Following consultation of the originator (EEAS)³ and its own assessment, the General Secretariat of the Council (GSC) comes to the conclusion that access has to be refused in order to protect the EU's international relations and the Council's decision-making process.

Indeed, the document is a basis for discussions concerning the dramatic situation in the Middle East and the disclosure of the information contained in it would complicate the position of the EU in this regard and have a negative impact on its relations with relevant third parties, seriously diminishing its ability to act effectively. Disclosure of the document would therefore undermine the protection of the public interest as regards international relations. As a consequence, the General Secretariat has to refuse access to the document for this reason.⁴

Furthermore, discussions within the Council on this issue are an ongoing process, and release of the document would also jeopardise the Council's ability to come to agreed decisions on the matter. Disclosure of the document would therefore seriously undermine the Council's decision-making process, and on balance the General Secretariat could not identify any evidence suggesting an overriding public interest in its disclosure. As a consequence, the General Secretariat has to refuse access to this document for this reason as well.⁵

We have also looked into the possibility of releasing parts of the document.⁶ However, as the exceptions to the right of access apply to its entire content, the General Secretariat is also unable to give partial access to it.

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.

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

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

⁵ Article 4(3), first subparagraph, of Regulation (EC) No 1049/2001.

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

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

Enclosure

From: **DELETED**
Sent: jeudi 28 août 2025 15:15
To: TRANSPARENCY Access to documents (COMM) <Access@consilium.europa.eu>
Subject: AW: Ref. 25/2029 [#340307]

Dear Council,

Please pass this on to the person reviewing confirmatory applications.

On July 11, I submitted a request for access to documents concerning the options paper on potential EU sanctions on Israel (Council Ref. 25/2029-PRO).

The original request can be found here: <https://fragdenstaat.de/anfrage/options-paper/>

The request was acknowledged on the same day. On August 11, I received the Council's response identifying documents 11461/25 and 11318/25 ADD 1, releasing the latter, and refused access in full to document 11461/25. Council invoked Article 4(1)(a), third indent (international relations) and Article 4(3), first subparagraph (decision-making) of Regulation 1049/2001, and declined to grant partial access under Article 4(6).

I consider that Council's refusal to provide access to the document holding the title "Inventory of possible follow-up measures for EU-IL Association Agreement" is misconceived, for the following reasons.

The Council argues, that the "document is classified at the classification level "RESTREINT UE/EU RESTRICTED", meaning 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".

However, the document's classification as RESTREINT UE/EU RESTRICTED does not, in itself, justify non-disclosure as Regulation 1049/2001 applies to all documents. The application of a blanket refusal due to internal classification as belonging to a sensitive matter is not in accordance with the Regulation. The document needs to be treated as any other document.

Furthermore, Council argues that “the disclosure of the information contained in it would complicate the position of the EU in this regard and have a negative impact on its relations with relevant third parties, seriously diminishing its ability to act effectively.”, however Council must demonstrate how disclosure would “specifically and actually” undermine an interest protected under Article 4 of Regulation 1049/2001. Also, I am also recalling that, in accordance with well-established EU case law, authorities refusing access to documents must demonstrate how the risk in disclosure is “reasonably foreseeable and not purely hypothetical”. This is a standard Council has failed to comply with, as its argumentation is framed very vague.

Furthermore, in its refusal, Council conflates public interest with the EU’s interest, thus arguing for protection of the EU’s interest. The exception protects public interest as regards international relations, not an institution’s interest in avoiding scrutiny or debate. Indeed, disclosure is of public interest, as the “Inventory of possible follow-up measures for EU-IL Association Agreement” forms the Union’s response to grave and ongoing human rights violations and the public has a right to know about efforts and responsibilities met.

Additionally, details of the inventory are already in the public domain. Discussions including ten discrete possible measures such as visa suspensions, trade restrictions, import bans, an arms embargo, programme exclusions, etc., have already been reported by multiple media outlets. Reports by Reuters, Euronews, Euractiv, The Guardian, among others, confirm that the paper was prepared and circulated and disclose concrete measures under consideration [1].

Also reported extensively on, is a leaked internal EEAS review of June 2025, which found that Israel “would be in breach of its human rights obligations”, referencing findings by the Office of the United Nations High Commissioner for Human Rights (OHCHR) in Geneva and the International Court of Justice (ICJ) in The Hague in naming many Israeli violations and that Israel was “in violation of an ICJ provisional ruling” designed to “prevent the commission of acts within the scope of the genocide convention”[2]. Still, the EU’ continuation of business as usual and trade and political cooperation with Israel is in direct violation of its legal obligation and makes the EU complicit.

Therefore, as comparable information and extensive discussion is continuous, Council cannot validly argue that disclosure of the requested information would undermine public security. The meetings and discussions continue, despite public acknowledgement, showing that these topics are not truly threatening to public security or diplomacy, this undermines the EEAS's justification for refusing to disclose the documents.

Council also states the “release of the document would also jeopardise the Council's ability to come to agreed decisions on the matter [and] [...] would therefore seriously undermine the Council's decision-making process”. Again, Council must still demonstrate, with specificity, how disclosure would “specifically and actually” and “reasonably foreseeably” undermine the decision-making process, as the sole fact, that the discussions are ongoing do not show in what way the decision-making efforts would be jeopardised. Rather, disclosure would not be a threat but actually a benefit to decision-making process. Citizens, civil society, and the press have the right to know what is being debated in their name, particularly when those deliberations concern potential violations of international humanitarian law and the EU's human rights obligations.

In its refusal, the Council says that it cannot identify any evidence suggesting an overriding public interest in disclosing the requested document.

However, there is a clear public interest in disclosing the “Inventory of possible follow-up measures for EU-IL Association Agreement”

There is a compelling overriding public interest in disclosing the EU's internal discussions on its response to the situation in Gaza and its legal obligations under the EU-Israel Association Agreement. As mentioned above, international courts, the ICJ and the ICC, have issued landmark rulings on Israel's illegal occupation, apartheid, and crimes against humanity, including a “plausible” risk of genocide [3]. It is of clear relevance to know whether the EU's internal discussions acknowledge and reflect its legal obligations and whether the EU and Member States uphold their obligations under the Genocide Convention and the 2004 and 2024 ICJ Advisory Opinions, by ending all forms of complicity with Israel's illegal occupation and genocide.

In June 2025 an Expert Legal Opinion was commissioned by a cross-party coalition of Members of the European Parliament from the S&D, Renew, and Greens/EFA groups. It was prepared in response to the July 2024 Advisory Opinion by the ICJ on Israel’s policies in the Occupied Palestinian Territory. The opinion provides a legal analysis on the obligations for the EU and its Member States, stating that the breaches “ascertained by the Court have generated international legal obligations that are binding not only on EU Member States, but also on the EU and its institutions” [4a].

According to the opinion, the EU and its Member States are legally required to avoid treaty, trade, or investment relations with Israel that support its unlawful presence in the Occupied Palestinian Territory and must also cooperate with international efforts to end this situation. Specifically, the EU-Israel Association Agreement must be reassessed in light of the ICJ’s findings of serious violations of international law. These violations may justify invoking Article 2 and potentially suspending the agreement.

Furthermore, the opinion notes that a failure to act, “could be invoked in Member State courts or before the CJEU, not only by victims who have been directly injured by such breaches” [4b].

Most recently, as of July 2025, lawyers have announced a lawsuit for failure to act before the European Court of Justice, citing the inaction of the Commission and Council in response to Israel’s crimes committed in Gaza [5]. This legal action underscores the urgency and public interest in knowing what actions or inactions were taken or debated within the EU institutions.

Many civil society actors and initiatives are calling for the suspension of the Agreement, see for example the recent call by over 50 organisations from across Europe working on economic justice, climate, environment, development and human rights [6].

Given this legal and political context, it is essential that the public be informed whether the EU is fulfilling its obligations under Article 21 TEU, international humanitarian law, and the Genocide Convention.

The public has not just a right to know, but a need to know, whether the EU’s political actions and instruments are aligned with the legal assessments of its own institutions and legal services, especially in the face of war crimes and genocide.

For these reasons, I consider that the Council is legally obligated to provide the requested document.

Please do not hesitate to let me know if you have any doubts or questions in regards to this confirmatory application.

Many thanks in advance.

Sincerely,

DELETED
