



**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, 1 March 2021

Mr Arne Semsrott  
Email: a.semsrott[REDACTED]@fragdenstaat.de

Ref. 21/0420 – former 20/2191-rh/nb ADD2

Dear Mr Semsrott,

Further to our letter of 16 February 2021, please find enclosed documents **5758/20**, **12554/20**, **12858/20** and **12862/20**.

Please also find document **CM 2142/20** - partial access without personal data<sup>1</sup>.

Please also find partially accessible version of document **12864/20**. However, I regret to inform you that full access cannot be granted due to the reasons exposed below.

Document **12864/20** of 16 November 2020 is a note from the Presidency to delegations on *Recommendations for a way forward on the topic of encryption*. It concerns a sensitive issue which is still under discussion within the Council.

For the Council to reach a final agreement on the recommendations for next steps that have not been taken yet, its Member States held consultations and exploratory talks. To reveal the full content of such talks before a common position has been reached would interfere with the negotiations and would jeopardise the conclusion of an agreement within the Council.

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<sup>1</sup> Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39–98).

The full disclosure of the text at a moment when the appropriate balance of the various interests involved has not yet been achieved within the Council's preparatory bodies would reduce the flexibility for delegations to formulate and reconsider their positions in the light of the arguments exchange in the debate. This would seriously affect the chances of finding a convergence in delegations' positions.

Full disclosure of the document at this stage would therefore seriously undermine the decision-making process of the Council. As a consequence, the General Secretariat has to refuse full access to this document <sup>2</sup>.

Having examined the context in which the document was drafted, on balance the General Secretariat could not identify any evidence suggesting an overriding public interest in its full disclosure.

I regret to inform you that access to document **12865/20** cannot be granted due to the reasons exposed below.

Document **12865/20** of 17 November 2020 is a note from the Presidency to delegations - *Independent evaluation study on the EU Policy Cycle for organised and serious international crime/EMPACT 2018-2021: Exchange of views on governance and strategic recommendations*. It examines the EU Policy Cycle, possible changes and contains a list of concrete operational and technical recommendations from an independent evaluation study as an input for the next EU Policy Cycle.

Release of the information contained in this document would jeopardise the public security by revealing sensitive information on operational aspects and possible changes in fighting of organised and serious international crime.

Therefore, the General Secretariat is of the opinion that disclosure of the document would undermine the protection of the public interest as regards public security. As a consequence, the General Secretariat has to refuse access to this document.<sup>3</sup>

We have also looked into the possibility of releasing parts of this document.<sup>4</sup> However, as the exception to the right of access applies to its entire content, the General Secretariat is unable to give partial access.

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<sup>2</sup> Article 4(3), first subparagraph, of Regulation (EC) No 1049/2001.

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

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

I also regret to inform you that access to documents **7743/20 INIT + REV 1** cannot be granted due to the reasons exposed below.

Documents **7743/20 INIT + REV 1** of 5 May + 15 June 2020 are notes from the Presidency to the Standing Committee on Operational Cooperation on Internal Security (COSI) on *Enhancing the response to drug trafficking - a strategic and operational set of measures*.

Release of the information contained in the documents would jeopardise the public security by revealing suggestions for a set o measures to enhance the EU response to illicit drug trafficking.

Therefore, the General Secretariat is of the opinion that disclosure of the documents would undermine the protection of the public interest as regards public security. As a consequence, the General Secretariat has to refuse access to the documents.<sup>5</sup>

We have also looked into the possibility of releasing parts of the documents.<sup>6</sup> However, as the exception to the right of access applies to their entire content, the General Secretariat is unable to give partial access.

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.<sup>7</sup>

The General Secretariat is still examining remaining documents and you will be informed about the outcome as soon as possible.

Yours sincerely,



Enclosures: 6

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<sup>5</sup> Article 4(1)(a), first indent, of Regulation (EC) No 1049/2001.

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

<sup>7</sup> 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.