



**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, 26 October 2022

Mr Arne Semsrott

Email: [REDACTED]

Ref. 22/2034-rh/nb

Request made on: 05.10.2022

Dear Mr Semsrott,

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

I regret to inform you that access to documents **WK 7740/22**, **WK 7901/22** and **WK 12569/22** cannot be given for the reasons set out below.

Document **WK 7740/22** of 30 May 2022 is a working document from the General Secretariat of the Council to delegations on the *Agreement between the European Union, of the one part, and New Zealand, of the other part, on the exchange of personal data between the European Union Agency for Law Enforcement Cooperation (Europol) and the authorities of New Zealand competent for fighting serious crime and terrorism - Written comments and questions to the Commission*.

Document **WK 7901/22** of 1 June 2022 is a working document from Commission services to delegations containing a *Commission services non-paper - Replies to the technical questions raised by Member States' Delegations on the Proposal for a Council decision on the signing, on behalf of the EU, of the Agreement between the EU and New Zealand (NZ) on the exchange of personal data between Europol and the authorities of NZ competent for fighting serious crime and terrorism*.

---

<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).

Although the negotiations were finalized and document signed, the agreement is still not concluded. Thus, the decision-making process is not finalized. Having consulted with the European Commission, the General Secretariat of the Council is of the opinion that public access to documents **WK 7740/22** and **WK 7901/22** at this stage would undermine the protection of the public interest as regards international relations.<sup>2</sup>

Please note that the General Court expressly alluded to the possibility that the protection of the public interest in international relations within the meaning of Article 4(1)(a), third indent of Regulation 1049/2001 can justify maintaining the confidentiality of the negotiating documents for a certain period after the end of those negotiations.<sup>3</sup>

Document **WK 12569/22** of 26 September 2022 is a working document from Commission services to delegations containing a *Draft Agreement between the European Union, of the one part, and the Government of the State of Israel, of the other part, on the exchange of Personal Data between the European Union Agency for Law Enforcement Cooperation (Europol) and the authorities of Israel competent for fighting serious crime and terrorism.*

It relates to the ongoing discussions with a third country at advance stage of negotiations and contains sensitive information, describes and addresses possible legal options and issues related to fight against serious crime and counter-terrorism. The agreement has not been signed/concluded yet. The only step achieved is the finalization of negotiations in principle, subject to legal revision.

Having consulted with the European Commission again, the General Secretariat of the Council is of the opinion that the disclosure of this document would negatively affect the Commission's effectiveness to make further steps towards the signature and conclusion of the agreement with Israel. Thus, the disclosure would undermine the protection of the public interest as regards international relations.<sup>4</sup>

Furthermore, I regret to inform you that access to document **WK 119/22** cannot be given for the reasons set out below.

Document **WK 119/22** of 6 January 2022 is a working document from the Presidency to delegations on *AIRPOL Behaviour Detection Guideline*.

The release of the information contained in this document would jeopardise the public security by revealing police operational information on specific training methods in order to prevent terrorist attacks developed in co-operation with a number of EU Member States as well as specialist from countries outside EU.

---

<sup>2</sup> Article 4(1)(a), third indent, of Regulation (EC) No 1049/2001.

<sup>3</sup> Judgment of 19 March 2013, In 't Veld v Commission, T-301/10, EU:T:2013:135, paragraph 127.

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

Therefore, having consulted with AIRPOL, the General Secretariat is of the opinion that the 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>5</sup>

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.

Please note that consultations are ongoing for the following remaining documents:

**WK 8678/22**

**WK 8680/22**

**WK 10675/22**

**WK 11587/22**

**WK 12386/22**

Therefore, we have to extend the deadline for this part of your request until 18 November 2022.

Yours sincerely,

Fernando FLORINDO

---

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