



SG.2
Head of Division

Brussels, 21 March 2023
eeas.sg.2 (2023) 1418336

To
Mr Kelly Bescherer
by electronic mail

Subject: Your application for access to documents of 7 February 2022
EEAS ref: 2023/025

Dear Ms Bescherer,

I would like to thank you for your application for access to documents, which the EEAS has examined in the framework of Regulation (EC) No 1049/2001.¹

Following your application requesting access to documents between the Delegation of the EU to the Gambia and the Gambian authorities and specifically your e-mail dated from 7 February 2023 that subsequently narrowed your request to “access to correspondence and reports related to the issue of visa sanctions since 2020”, we have searched for all related documents in the EEAS filing systems and document management databases.

After this search, the EEAS has identified two sets of documents matching your application, i.e. the correspondence between the European Union and The Gambia that took place since 2020 and relate or refer to the matter of restrictive visa measures imposed on The Gambia in 2021 and 2022, as referenced hereafter:

1. Note Verbale of March 2022 – welcoming the lift of moratorium on charter flights and organization of the EU- Gambia Joint Working Group (document 1);
2. Submission of the minutes of the Joint Working Group of 25 October 2022 to the Gambia for comments (document 2);
3. Gambia’s Note Verbale submitting The Gambia own assessment on cooperation on readmission of 30 September 2022 and the EU reply thereto (document 3);

¹ 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, of 31.5.2001, p. 43, hereafter the "Regulation").

4. Minutes of the 1st EU-Gambia Joint Working Group on the Implementation of the Readmission Arrangement between the EU and The Gambia (document 4);
5. Reply letter from Commissioner Ylva Johansson to H.E. Dr. Mamadou Tangara, the Gambian Foreign Minister: Country Update state of play Gambia-EU cooperation on return & readmission (document 5);
6. Letter of EU Ambassador transmitting the Note Verbale on lifting of the moratorium on returns by charter flight (document 6);
7. Letter of the Gambian Minister to the EU Delegation transmitting The Gambia's assessment /"Country update" (document 7).

Concerning documents 1, 2 and 3, our examination concluded that they contain information on the bilateral relations between the European Union and Member States, on the one hand, and The Gambia, on the other hand. A complete disclosure of these documents to the general public would harm the EU's diplomatic relations with The Gambia, breach undertakings to maintain the confidence of information provided by Member States, and disadvantage the Union or the Member States in their policy negotiations with The Gambia.

Therefore, I regret to inform you that we are not in a position to disclose these documents at this point in time, neither as a whole or partially, since it would undermine the protection of the public interest as regards international relations as per Article 4(1)(a), third indent of the Regulation.

However, I am pleased to inform you that access can be granted for documents 4, 5, 6 and 7, i.e. to the letters by which the EU Delegation transmits or receives the correspondence at stake, acknowledging the above mentioned events or that exchanges have been held.

Kindly note that redactions have been made in these documents in order to protect the personal data of the participants. A complete disclosure is prevented by the exception concerning the protection of privacy and the integrity of the individual outlined in Article 4(1)(b) of the Regulation, because they contain handwritten signatures/abbreviated signatures of natural persons.

Article 9(1)(b) of Regulation (EU) 2018/1725² does not allow the transmission of these personal data, except if you establish that it is necessary to have the data transmitted to you for a specific purpose in the public interest and where there is no reason to assume that the legitimate interests of the data subject might be prejudiced.

In your request, you do not express any particular interest to have access to these personal data nor do you put forward any arguments to establish the necessity to have the data transmitted for a specific purpose in the public interest.

Consequently, I conclude that, pursuant to Article 4(1)(b) of the Regulation, access cannot be granted to the personal data contained in the requested documents, as the need to obtain access

² 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 <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32018R1725>

thereto for a purpose in the public interest has not been substantiated and there is no reason to think that the legitimate interests of the individuals concerned would not be prejudiced by disclosure of the personal data concerned.

I take this opportunity to remind you that the documents provided may be reused on condition that the source is acknowledged and that you do not distort the original meaning or message of the documents. Please note that the EEAS does not assume liability stemming from their reuse. In case of doubt on reuse, please do contact the EEAS for prior authorisation.

Should you wish this position to be reviewed, you may make a confirmatory application within 15 working days in accordance with Article 7(2) of the Regulation.

Yours sincerely,

[e-signed]

Nereo Penalver Garcia