



**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, 9 June 2021

Mr Stefan Soesanto

Email: ask+request-9395-7cfa658@asktheeu.org

Ref. 21/0928-rh/nb

Request made on: 28.04.2021

Registered on: 29.04.2021

Deadline extension: 25.05.2021

Dear Mr Soesanto,

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 document **8242/21** cannot be given for the reasons set out below.

Document **8242/21** of 27 April 2021 is a note from EEAS and Commission to delegations on the *Cyber Diplomacy Toolbox - Lessons Learnt Exercise*. It contains sensitive information on EU's response to malicious cyber activities.

Release of the information contained in this document would jeopardise the public security by revealing concrete provisions of a proposed working plan, its timeline and evaluation methods. Therefore, having consulted with originating sources of the document, 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 the document.<sup>2</sup>

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<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).

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

Moreover, the document concerns an issue which is still under discussion within the Council. Granting public access to a document intended for internal use on a process where a decision has not yet been taken could seriously undermine the institution's decision-making process. In fact, public knowledge of this internal document could seriously undermine the decision-making process as Member States might not fully engage or contribute to the lessons learned exercise if they consider that their participation might lead to public access to positions shared on sensitive or even classified matters such as those covered by the cyber diplomacy toolbox.

Having again consulted with originating sources of the document, the Council is of the opinion that the description of the process itself, but also the outcome itself, is sensitive in nature and this information being made public would seriously undermine the underlying objective of the whole exercise.

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 access to the document for this reason as well.<sup>3</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 disclosure.

We have also looked into the possibility of releasing parts of the document.<sup>4</sup> However, as the information contained in the document forms an inseparable whole, 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>5</sup>

Yours sincerely,

Fernando FLORINDO

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

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

<sup>5</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.