



EUROPEAN COMMISSION
DIRECTORATE-GENERAL MIGRATION and HOME AFFAIRS

The Director-General

Brussels,
HOME/C5

***By registered letter with
acknowledgment of receipt***

Mrs Esther Bijl
Avenue Molière, 25B-1190 Brussels

Advance copy by email:

ask+request-9795-
0e1a52ab@asktheeu.org

**Subject: Your application for access to documents – Ref GestDem No 2021/
4721**

Dear Madam,

I refer to your e-mail dated 24/07/2021 in which you make a request for access to documents, registered on 27/07/2021 under the above-mentioned reference number.

You request access to following documents for the period between 1st January 2012 and 31 December 2015:

1. List of all meetings between DG HOME officials related to the visa waiver agreement with the United Arab Emirates (UAE) and agendas, minutes, reports and other documentation of these meetings;
2. List of all meetings between DG HOME officials and the Offices of Members of the European Parliament related to the visa waiver agreement with the UAE and agendas, minutes, reports and other documentation of these meetings;
3. List of all meetings between DG HOME officials and European External Action Service (EEAS) officials related to the visa waiver agreement with

- the UAE and agendas, minutes, reports and other documentation of these meetings;
4. All correspondence between DG HOME officials on related to the visa waiver agreement with the UAE including, but not limited to, e-mails, text messages, basis documents, memos or drafts;
 5. All correspondence between DG HOME officials and Offices of Members of the European Parliament related to the visa waiver agreement with the UAE including, but not limited to, e-mails, text messages, basis documents, memos or drafts.

Regarding your request for lists of meetings, we regret to inform you that the Commission does not hold any documents that would correspond to the description given in your application. As specified in Article 2(3) of Regulation (EC) No 1049/2001, the right of access as defined in that Regulation applies only to existing documents in the possession of the institution. Given that no such lists are held by the Commission, the Commission is not in a position to fulfil your request.

However you also request agendas, minutes, reports and other documentation of these meetings.

As far as **point 1 and 4** of your request are concerned, we identified eight documents as relevant for the sake of your request. Document n° 1-8 are listed in the annex to this letter.

Regarding your request under **point 2**, we identified nine documents as relevant for the sake of your request. Documents n° 9-17 are listed in the annex to this letter.

Please be informed that the European Parliament has set up a Public Register on its website with the view to enhancing transparency on its activities and facilitating access to documents by individuals. This register makes directly available to the public a large number of documents produced and held by the Parliament. Filter function tools are available on the webpage to facilitate the sorting of documents by year and category. Documents n°9 and n°11 are available on the following link:

https://www.europarl.europa.eu/doceo/document/LIBE-OJ-2014-02-12-1_FR.pdf

https://www.europarl.europa.eu/doceo/document/LIBE-OJ-2015-07-15-1_EN.pdf

We identified one document as relevant for the sake of your request under **point 3**. Document n° 18 is listed in the annex to this letter.

Following an examination of the requested documents (except the above mentioned documents n°9 and n°11 which are publicly available) under the provisions of Regulation (EC) No 1049/2001 regarding public access to documents, I regret to inform you that the disclosure of the documents which you seek to obtain would undermine the protection of the public interest as regards international relations, as provided in Article 4(1)(a), third indent of the Regulation and would seriously undermine the decision-making process under Article 4(3) second subparagraph of the Regulation. As far as the protection of international relations is concerned, the EU Court has acknowledged that the institutions

enjoy a wide discretion when considering whether access to a document may undermine that public interest¹.

Indeed, the information contained in these documents relates to the negotiations for the adoption of an act legally binding for the parties, the Visa Waiver Agreement with the United Arab Emirates (UAE).

On 6 May 2015, the EU and the UAE signed a short-stay visa waiver agreement. The agreement will be provisionally applied until its final ratification. To date, the agreement is ratified by the European Parliament and but not yet by the UAE's authorities. The documents which you seek to obtain relate to negotiations and conclusion of an international agreement which have not come to a full ratification by UAE. The disclosure of such information which reveal views and policy options in sensitive matter could prejudice the conclusion of the ratification process between the two parties, and negatively affect the position of the EU in the context of future similar negotiations with other partners.

Disclosure of documents under point 1, 2, 3 and 4 to the general public would be detrimental to the Union's relations with the UAE and harm the possibility to maintain the environment of mutual trust, thus negatively affecting the possibility of holding such dialogues in the future, or their substance. A public release of such information could jeopardise both the EU's relations with the UAE and the aims of the bilateral dialogue.

The General Court has acknowledged in a recent judgment that the way in which the authorities of a third country perceive the decisions of the European Union is a component of the relations established with that third country. Indeed, the pursuit and the quality of those relations depend on that perception².

At the outset, I must underline that the refused documents were drawn up for purely internal purposes within the Commission in the context of consultations in view of the negotiation of the Visa Waiver Agreement with the UAE. More precisely, it makes a detailed analysis of the different options the Commission might consider when negotiating the Visa Waiver Agreement and it also contains references to individual positions or comments of Member States on some sensitive questions. Moreover, in its nature, briefings reflect the opinions of the authors, destined for internal use, do not reflect an official position by the Commission or the EU and do not necessarily correspond to the positions taken by the Commission.

We have considered whether partial access could be granted to the documents requested and came to the conclusion that access to an expunged version of the documents is not possible, as the abovementioned exceptions apply to the entire document and the documents would be meaningless after expunging the sensitive information.

The exception laid down in Article 4(3) of Regulation (EC) No 1049/2001 applies unless there is an overriding public interest in disclosure of the document. I have examined whether there could be an overriding public interest in disclosure, but that I have not been able to identify such an interest.

¹ Judgment of the Court of First Instance of 25 April 2007, in Case T-264/04, WWF European Policy Programme v Council, EU:T:2007:114, paragraph 40.

² Judgment of the General Court of 27 February 2018, Case T-307/16, CEE Bankwatch Network v European Commission, EU:T:2018:97, paragraph 90.

Regarding your request under **point 5** we inform you that the Commission does not hold any relevant documents that would correspond to the description given in your application. As specified in Article 2(3) of Regulation (EC) No 1049/2001, the right of access as defined in that Regulation applies only to existing documents in the possession of the institution. Given that no such documents, corresponding to the description given in your application, are held by the Commission, the Commission is not in a position to fulfil your request.

In accordance with Article 7(2) of Regulation 1049/2001, you are entitled to make a confirmatory application requesting the Commission to review this position.

Such a confirmatory application should be addressed within 15 working days upon receipt of this letter to the Secretary-General of the Commission at the following address:

European Commission
Secretary-General
Transparency unit SG-B-4
BERL 5/288
B-1049 Bruxelles

or by email to: sg-acc-doc@ec.europa.eu

Yours faithfully,

Monique Pariat

Annex: List of 18 documents requested

List of documents:

1. Briefing for the Director General Mr Stefano MANSERVISI for Meeting 26 June 2012 with H.E. Mr Sulaiman Hamid Almazroui Ambassador of the United Arab Emirates (Ares(2012)759320)
2. Meeting report of informal lunch briefing with UAE (Ares(2021)5025686)
3. Briefing for the Director General Mr Stefano MANSERVISI for Meeting 11 February 2013 with UAE Minister of State for Foreign Affairs, (Ares(2021)4961195)
4. E-mail dated 12 February 2012 - Meeting report of Meeting 11 February 2013 (Ares(2021)5025686)
5. Briefing for Mrs Asenius. Meeting with UAE on 13 February 2013 (Ares(2021)5025686)
6. Briefing for the Director General Mr Stefano MANSERVISI for Meeting 26 July 2013 with UEA civil aviation (Ares(2021)5025686)
7. E-mail dated 5 November 2014 – Flash report negotiation meeting with UEA (Ares(2021)5025686)
8. Briefing for the Director Belinda Pyke for Signing of visa waiver agreement with the United Arab Emirates (Ares(2021)5025686)



9. 12 February 2014_Agenda of the European Parliament Committee on Civil Liberties, Justice Home Affairs (Ares(2021)4958696)
10. 12 February 2014_DG HOME email flash report from the meeting (Ares(2021)4958696)
11. 16 July 2015_Agenda of the European Parliament Committee on Civil Liberties, Justice and Home Affairs (Ares(2021)4958696)
12. 16 July 2014_DG HOME e-mail flash report from the meeting (Ares(2021)4958696)
13. 19 September 2015_DG HOME e-mail flash report from the meeting of the European Parliament Committee on Civil Liberties, Justice and Home Affairs (Ares(2021)4958696)
14. 8 January 2014_DG HOME e-mail flash report of trilogue of the Parliament, the Council and the Commission meeting dated 08/01/2014 to discuss the amendment to Regulation 539/2001 concerning the lists of countries (Ares(2021)4958696)

15. 28 January 2014_DG HOME e-mail flash report of trilogue of the Parliament, the Council and the Commission dated 28/01/2014 to discuss the amendment to Regulation 539/2001 concerning the lists of countries (Ares(2021)4958696)

16. 04 February 2014 DG HOME e-mail flash report of trilogue of the Parliament, the Council and the Commission dated 04/02/2014 to discuss the amendment to Regulation 539/2001 concerning the lists of countries (Ares(2021)4958696)

17. 15 March 2013 E-mail Report form Meeting DG HOME with EP rapporteur

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18. Briefing for EEAS for the Gulf Cooperation Council (GCC) and the EU Joint Cooperation Committee, Regional Directors meeting, Brussels, 24-25 April 2013 (Ares(2013)716599)

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