



EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR MIGRATION AND HOME AFFAIRS

The Director-General

Brussels
HOME.A3/MP

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 – GESTDEM 2021/6265

Dear Madam,

We refer to your e-mail dated 20 October 2021 in which you make a request for access to documents, registered on 20 October 2021 under the above-mentioned reference number.

You request access to:

1. *“a list of all meetings of DG HOME officials with United Arab Emirates representatives, including with UAE government officials (or their representatives), with employees of the UAE Embassy to the EU (incl. the Ambassador, incl. their representatives), as well as with employees and/or consultants working for lobby and/or consultancy and/or PR firms where the UAE is a client, that took place between 1 January 2012 and 31 December 2015;*
2. *Agendas, minutes, reports and other documentation of these meetings;*
3. *All correspondence that took place between 1 January 2012 and 31 December 2015 between DG HOME officials and UAE representatives, including UAE government officials (or their representatives), employees of the UAE Embassy to the EU (incl. the Ambassador, incl. their representatives), as well as employees and/or consultants working for lobby and/or consultancy and/or PR firms where the UAE is a client. This could include but is not limited to, e-mails, text messages, basis documents, memos or drafts.”*

Regarding **point 1** of 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 the Commission holds no such lists, the Commission is not in a position to fulfil your request.

As far as **point 2** of your request are concerned, we identified seven documents (documents n° 1-7) as relevant for the sake of your request. Regarding your request under **point 3**, we identified four documents (documents n° 9-13) as relevant for the sake of your request.

The following documents fall within the scope of your application:

- 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 (UAE), Ares(2012)759320 (hereafter ‘document 1’)
- Briefing for the Director General Mr Stefano MANSERVISI for Meeting 11 February 2013 with UAE Minister of State for Foreign Affairs, Ares(2021)4961195 (hereafter ‘document 2’)
- Briefing for the Managing Director Ms Mara Marinaki on Home Affairs issues - EU-UAE and EU-KSA during CT Dialogues, Ares(2021)7233486 (hereafter ‘document 3’)
- Draft Agenda EU-UAE Human Rights Working Group, Ares(2021) 7233598 (hereafter ‘document 4’)
- 2014-11-Steering brief third EU-UAE HR Working Group, Ares(2021)7235690 (hereafter ‘document 5’)
- Briefing EU-UAE HR Dialogue, Ares(2021)7235765 (hereafter ‘document 6’)
- UAE Dialogue Briefing May 2015 in fourth EU-UAE Human Rights working Group, Ares(2021)7235878 (hereafter ‘document 7’)
- Letter dated 8 April 2012 - from UAE to the European Commission, with as subject: request visa waiver, Ares(2021)4959367 (hereafter ‘document 8’)
- Letter dated 24 June 2013 from UAE to the European Commission, Ares(2021)4959367 (hereafter ‘document 9’)
- Letter dated 7 December 2013 from UAE to the European Commission, Ares(2021)4959367 (hereafter ‘document 10’)
- Letter dated 28 May 2014 from UAE to the European Commission, Ares(2021)4959367 (hereafter ‘document 11’)
- Letter dated 8 August 2014 from UAE to the European Commission , with as subject: visa Waiver, Ares(2021)4959367 (hereafter ‘document 12’)

- Letter dated 28 November 2014 from UAE to the European Commission, with as subject: Bilateral Visa Agreement Between the European Union and the United Arab Emirates, Ares(2021)4959367 (hereafter ‘document 13’)

Document 1 is a preparatory briefing to the Director-General of DG Home for his meeting of 26 June 2012 with the Ambassador of the UAE. Document 1 sets out the background and the lines to take on topics as visas, radicalisation, PNR and Europol.

Document 2 is a preparatory briefing to the Director-General of DG Home for his meeting of 11 February 2013 with the UAE Minister of State for Foreign Affairs. It sets out the background and the lines to take on topics as visas, radicalisation, Passenger Name Record (PNR) and Europol.

Document 3 is a preparatory briefing to the Managing Director for Counterterrorism (CT) political dialogues with the Saudi Arabia and the UAE on 13 February 2013. Document 3 sets out the background and the lines to take on topics as visas, radicalisation and PNR.

Documents 4, 5 and 6 were drafted by the EEAS in light of the EU-UAE Human Rights Group of 20 November 2014. The documents deal with the topic discussed during this meetings. These topics include developments in the field of Human Rights in the UAE and the EU, as well migration-related issues, such as legal migration, standards for foreign workers, the fight against Human Trafficking and illegal migration.

Document 7 is a preparatory for the CT political dialogues with the 4th EU-UAE Human Rights working Group. Document 3 sets out the background and the lines to take on topics as legal migration and mobility with third countries.

Documents 8 to 13 comprise letters authored by the UAE and addressed to the EU on the issue of visas.

1. Regarding Documents 1, 2 and 3

Since **documents 1, 2 and 3** were co-authored by the DG HOME and the European External Action Service (EEAS), EEAS has been consulted.

Following an examination of documents 1, 2 and 3 under the provisions of Regulation (EC) No 1049/2001 regarding public access to documents and taking into account the opinion of EEAS, I have come to the conclusion that documents 1, 2 and 3 may be partially disclosed. Some parts of the documents have been blanked out as their disclosure is prevented by exception to the right of access laid down under Article 4(1)(a), third indent, Article 4(1)(b) and Article 4(3), second subparagraph of the Regulation.

The redacted parts of the documents concern the **Visa Waiver Agreement** and the issue of **radicalisation and discussions on the Global Counterterrorism Forum (GCTF)**. In addition, parts of document 1 are blanked out on the basis of the **data protection exception**.

- a) *Content relating to the Visa Waiver Agreement - Protection of International Relations and the decision-making process (Article 4(1)(a), third indent and under Article 4(3) second subparagraph of Regulation 1049/2001)*

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 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 the parts on the Visa Waiver Agreement in documents 1, 2 and 3 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 perception¹.

Moreover, documents 1, 2 and 3 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 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, which does not reflect an official position by the Commission or the EU and do not necessarily correspond to the positions taken by the Commission.

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.

For this reason, I conclude that only partial access to the documents 1, 2 and 3 could be granted, whereby the parts concerning the Visa Waiver Agreement will be blanked out.

- b) *Radicalisation and discussions on the GCTF Center of Excellence on Countering Violent Extremism - Protection of International Relations (Article 4(1)(a), third indent)*

In addition, documents 1, 2 and 3 deal with the issue of **radicalisation and the discussions regarding the establishments of the GCTF Center of Excellence on Countering Violent Extremism.**

The EEAS objected to disclosure of the document and has motivated its position that the parts of document 1, regarding the issue of radicalisation and the discussions regarding the establishments of the GCTF, touch upon the topic of the fight against terrorism, which is of

¹ 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.

a very sensitive nature. Disclosing this information would negatively affect the EU's international relations with the UAE.

For this reason, documents 1, 2 and 3 could only be partially disclosed: the parts concerning the issue of radicalisation and the discussions regarding the establishments of the GCTF have therefore blanked out.

c) Protection of personal data (Article 4(1)(b) of Regulation 1049/2001)

In addition to the aforementioned, a complete disclosure of the document 1 is prevented by the exception concerning the protection of privacy and the integrity of the individual outlined in Article 4(1)(b) of Regulation (EC) No 1049/2001, because they contain the following personal data:

- the names/initials and contact information of Commission staff members not pertaining to the senior management;
- the names/initials and contact details of other institutions or natural persons;
- other information, such as photographic material, relating to an identified or identifiable natural person.

Article 9(1)(b) of the Data Protection Regulation does not allow the transmission of these personal data, except if you prove 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 neither express any particular interest to have access to these personal data, nor put forward arguments to establish the necessity to have the data transmitted for a specific purpose in the public interest.

d) Redaction of part if the documents falling outside scope of the request

Document 3 contains information regarding the negotiations with the Kingdom of Saudi Arabia. As this topic falls outside the scope of the request, pages 14 and 15 of document 3 are blackened out.

2. Regarding Documents 4 to 6

Protection of International Relations (Article 4(1)(a), third indent)

Since **documents 4 to 6** originate from a third party, the EEAS, the author of the documents has been consulted.

Following an examination of documents 4 to 6 under the provisions of Regulation (EC) No 1049/2001 regarding public access to documents and taking into account the opinion of the EEAS, I regret to inform you that your application cannot be granted, as disclosure is prevented by exception to the right of access laid down in Article 4(1)(a), third indent of the Regulation.

The of documents 4 to 6 which you seek to obtain contain information on discussions between the EU and the UAE, concerning sensitive topics such as developments in the UAE and the EU in the field of Human Rights, as well migration-related issues, such as legal migration, standards for foreign workers, the fight against Human Trafficking and illegal migration.

The EEAS of the has objected to disclosure of the documents and has motivated its position that disclosure would undermine the protection of the public interest as regards international relations, as these complete documents relate to discussions on sensitive matters between the EU and the United Arab Emirates.

We have considered whether partial access could be granted to the documents 4 to 6 and concluded that access to an expunged version of the documents is not possible, as the above-mentioned exceptions apply to the entire document and the documents would be meaningless after expunging the sensitive information.

3. Regarding Document 7

The document 7 can be fully released save protection of personal data.

A complete disclosure of the document 7 is prevented by the exception concerning the protection of privacy and the integrity of the individual outlined in Article 4(1)(b) of Regulation (EC) No 1049/2001, because they contain the following personal data:

- the names/initials and contact information of Commission staff members not pertaining to the senior management.

Article 9(1)(b) of the Data Protection Regulation does not allow the transmission of these personal data, except if you prove 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 neither express any particular interest to have access to these personal data, nor put forward arguments to establish the necessity to have the data transmitted for a specific purpose in the public interest.

4. Documents 8 to 13

Since **documents 8 to 13** originate from a third party, the originator of these documents has been consulted.

Following an examination of documents 8 to 13, under the provisions of Regulation (EC) No 1049/2001 regarding public access to documents and taking into account the opinion of the third party, I regret to inform you that your application cannot be granted, as disclosure is prevented by exception to the right of access laid down in Article 4(1)(a), third indent of this Regulation.

The documents 8 to 13 which you seek to obtain, contain information that would undermine the protection of the international relations.

The author of the documents 8 to 13 has objected to disclosure of the documents that it sent to the Commission and has motivated its position as follows:

“The UAE documents concern exchanges between senior members of the UAE Government and senior EU Officials. Ensuring the confidentiality of bilateral correspondence between high officials is important to guarantee the effectiveness and quality of international relations among international partners.

In addition, the UAE documents relate to bilateral negotiations between the UAE Government and EU Officials on visa arrangements.”

5. Disclaimers

You may reuse public documents, which have been produced by the European Commission or by public and private entities on its behalf based on the Commission Decision on the reuse of Commission documents. You may reuse the documents disclosed free of charge and for non-commercial and commercial purposes provided that the source is acknowledged and that you do not distort the original meaning or message of the documents. Please note that the Commission does not assume liability stemming from the reuse.

Some of the requested documents were drawn up for internal use under the responsibility of the relevant officials of the Directorate-General for Migration and Home Affairs. They solely reflect the authors' interpretation of the interventions made and do not set out any official position of the third parties to which the document refers, which was not consulted on its content. They do not reflect the position of the Commission and cannot be quoted as such.

Some of the requested documents originating from third parties are disclosed to you based on Regulation (EC) No 1049/2001. However, this disclosure is without prejudice to the rules on intellectual property, which may limit your right to reproduce or exploit the released documents without the agreement of the originator, who may hold an intellectual property right on it/them. The European Commission does not assume any responsibility from their reuse.

In accordance with Article 7(2) of Regulation (EC) No 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
Secretariat-General
Transparency, Document Management & Access to Documents (SG.C.1)
BERL 7/076
B-1049 Bruxelles
or by email to: sg-acc-doc@ec.europa.eu

Yours faithfully,

Monique PARIAT