|  |  |
| --- | --- |
|  | Brussels, 30 November 2015 |
| Mr Diego Naranjo  Email: ask+request-2199-61f031ea@asktheeu.org | |
| Ref. 15/1972-mjb/dm  Request made on: 07.08.2015 | |
| Dear Mr Naranjo*,* | |

Thank you for your request for access to documents of the Council of the European Union of 7 August 2015 regarding the Proposal for a Directive of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data by competent authorities for the purposes of prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and the free movement of such data (hereafter "Directive on Data Protection").[[1]](#footnote-1)

In addition to our letters of 28 August , 18 September 2015 and 11 November 2015 concerning your request, I regret to inform you that access to the remaining document cannot be given for the reasons set out below.

This remaining document is a letter from Switzerland regarding elements related to the Proposal for a Regulation on the General Data Protection. It is linked with the on-going discussions on the Proposal for a Directive on Data Protection, but does not concern specifically the Directive. The letter contains the opinion of this third party in the context of the on-going negotiations.

Release of the information contained in this document would have an negative impact in the negotiating process and would therefore seriously undermine the decision making-process of the Council.

Having examined the context in which the document was drafted and the current state of play on this matter, on balance the General Secretariat could not identify any evidence suggesting an overriding public interest in its full disclosure.

As a consequence, the General Secretariat has to refuse access to this document at this stage.[[2]](#footnote-2)

In addition, release of this document would also prejudice relations between the European Union and Switzerland as it concerns open questions between these two parties. Disclosure of the document would therefore undermine the protection of the public interest as regards international relations. As a consequence, the General Secretariat has to refuse access for this reason as well.[[3]](#footnote-3)

You can ask the Council to review this decision within 15 working days of receiving this reply.[[4]](#footnote-4)

Yours sincerely,

Jakob THOMSEN

1. 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). [↑](#footnote-ref-1)
2. Article 4(3), first subparagraph, of Regulation (EC) No 1049/2001. [↑](#footnote-ref-2)
3. Article 4(1)(a), third indent, of Regulation (EC) No 1049/2001. [↑](#footnote-ref-3)
4. Article 7(2) of Regulation (EC) No 1049/2001.

   Council documents on confirmatory applications are made available to the public. According to data protection rules at EU level (Regulation (EC) No 45/2001), if you make a confirmatory application your name will only appear in related documents if you have given your explicit consent. [↑](#footnote-ref-4)