



SG.2
Head of Division

Brussels, 31 January 2022
eeas.sg.2 (2021) 7945213

Subject: Your request for access to documents of 13 October 2021
Our ref: 2021/149

Dear Mr Soesanto,

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

Following your request, we have searched for documents regarding: *(1) The number of non-public EU demarches carried out by the EU delegations on respect for the rules-based order in cyberspace (or any other cyber-related EU demarches) between 2017 and 2021. (2) The day/month/year when these non-public EU demarches were carried out (3) The recipient governments of these non-public EU demarches (4) The number of public EU demarches related to cyber issues (apart from the EU demarche in November 2020 on advancing security and stability in cyberspace [EU Council - ST 11658 2020 REV 1], and the EU demarche on September 2021 to address the UNGA 2021 First Committee session related to cyber issues [EU Council - ST 11968 2021 INIT]) (5) The number of public and non-public cyber-related demarches that were carried out by an individual EU member state that the EEAS is aware of (2017-2021)*' in the EEAS filing systems and document management databases.

Please be informed that following our search, we have identified two additional EU demarches, which were conducted in addition to the ones from 2020 and 2021 already mentioned in your application and which are listed below, for your information:

- **2018: EU demarche on a draft resolution on "Developments in the field of information and telecommunications in the context of international security".**
- **2019: EU demarche on a draft resolution on "Countering the Use of Information and Communications Technologies for Criminal Purposes"**

¹ Regulation (EC) No 1049/2001 of the European Parliament and of the Council regarding public access to European Parliament, Council and Commission documents (hereafter the "Regulation").

I regret however to inform you that these demarches cannot be disclosed since they are covered by the exception related to the protection of public security, international relations, and internal decision-making process. The disclosure of their content to the general public would be detrimental to the Union's relations with the respective third countries, adversely affecting diplomatic relations, as well as undermining security aspects, by revealing EU and its Member States positions and margin of manoeuvre on matters related to cyber-security within ongoing negotiations to develop a new instrument to combat cybercrime. It would also hamper the work of the working group on development in the field of information and telecommunication in the context of international security.

We also considered the possibility of a partial access, but it does not seem to be feasible since the vast majority of the substantive part of the document is covered by the invoked exceptions. We were also not able to identify any overriding public interest in disclosure.

Therefore, we are not in a position to disclose the listed demarches, neither as a whole nor partially since it would undermine the EU's public security, international relations and the decision-making process in relation to the formation of the EU diplomatic response, as per Article 4(1)(a), 1st and 3rd indents, as well as Article 3, first subparagraph, of the Regulation.

In relation to the different requests for information about other EU demarches (number of different EU demarches, the identification of the date when they were issued and the identification of recipient governments, hereinafter referred as "requested data"), I regret to inform you that such request for information is outside the scope of the Regulation. Under the legal framework for public access to documents, the institution has to assess whether it can release certain documents to the public domain, but it is not obliged to create new documents with the requested information. The EEAS confirms that there is no such a document containing the requested information.

By virtue of the principle of transparency, the EEAS still analysed this part of your request as a request for information. However, we regret to inform you that we cannot disclose the requested data related to the EU demarches. This information provides an insight in the way how the EU responds to malicious cyber activities. As such, disclosure of the requested data would provide valuable information to adverse actors about how the EU tackles and forms joint diplomatic responses to malicious cyber activities. In consequence, those adverse actors would adapt their activity in order to hamper the joint EU diplomatic response.

Should you wish this position to be reviewed, you may confirm your initial request within 15 working days.

Yours sincerely,

[e-signed]

Guillem Riutord Sampol