

☒ PUBLIC

☐ CONFIDENTIAL

Type of action

I confirm that the title of the Ombudsman in the correspondence respects [these rules](#). ☐

- ☐ Request Clarifications
 - ☐ Opinion Request
 - ☐ Opinion + Inspection Request
 - ☐ Inspection Request
 - ☐ Observations Request
 - ☐ Report on inspection of files
 - ☐ Further Inquiry
 - ☐ Friendly solution
 - ☐ Draft recommendation
 - ☐ Deferment of deadline
 - ☐ Decision
 - ☐ Further Correspondence
- In case no FC summary, insert *Entrée* number(s) use "from ... to" if multiple references.**
[1007-2013-LP-E2013-176948](#)
☐ 14.3 Article ECGAB
- ☐ Reply to request for access to documents
 - ☒ Reply to request for review
 - ☐ Reply to service complaint
 - ☐ EDPS Consultation
 - ☐ Other please specify :

Details of correspondence

- ☒ Letter to the complainant
- ☐ Enclosures : please specify
- ☐ CC : please specify name & address

- ☐ Letter to the Institution
 - ☐ Enclosures : please specify
 - ☐ CC : please specify name & address
 - ☐ Direct transmission to Commissioner's cabinet
- Please specify Cabinet Contact Person :

- ☐ Information letter to third parties
- ☐ Enclosures : please specify
- ☐ CC : please specify name & address

Other comments/information :

Case reference FURTHER CORRESPONDENCE

1007/2013/LP

OUTSIDE MANDATE COMPLAINTS

Entrée number(s): 1007-2013-LP-E2013-176948
(use "from ... to" if multiple references)

Nature of FC:

- ☐ REQUEST FOR INFORMATION / DOCUMENTS
- ☐ TRANSFER CONSENT
- ☐ DISSATISFACTION WITH EO RESPONSE
- ☐ REPEATED COMPLAINT / GRIEVANCE
- ☒ **REASONED REQUEST FOR REVIEW**
- ☐ OTHER

Type of response proposed:

- ☐ Telephone call
- ☒ Written response (letter or simple e-mail)
- ☐ Article 14(3)
- ☐ OTHER

This proposal has been saved under

S:\Legal\Complaint summaries\INADMIS

at the time of submission to the HR.

CONFIDENTIAL (scroll down to change)

Date of correspondence : 04/07/2013
Date registered : 04/07/2013
Date of note : 11/10/2013

Name of complainant : [REDACTED]
'represented by' (as relevant) :

Language : ENG

BACKGROUND (including date of original complaint, of the EO's reply and of any further correspondence that has already been dealt with)

On 25 May 2013 the complainant filed a complaint against the Council decision regarding the renewal of the restrictive measures against Syria with a view of relaxing the current ban on export of arms and related materials to Syria. The complainant posted several tweets objecting to providing arms to the Revolutionary Forces in Syria. The complainant was informed that the question raised did not relate to possible maladministration and thus is outside the EO mandate as it concerned the merits of Union political decision on foreign policy. The complainant was advised to file a petition with the European Parliament.

FURTHER CORRESPONDENCE (to which the present note relates)

On 4 July 2013 the complainant sent a letter to the EO with a copy to UN and US officials stating that "you misunderstood the situation with regard to the European Union, the Council and Syria.

There very much is maladministration within EU administration when United Nations Resolutions and Law are broken by EU countries. All EU countries are members of United Nations and are bound to its decisions - at least Germany is, according to our Constitution, 25 GG."

PROPOSED WRITTEN REPLY / TELEPHONE CALL / SUMMARY OF CALL

Preliminary remark

In the complainant's request for review UN, US and EU high public officials were copied. The complainant also publishes the letters from the intuitions that she receives on Twitter. In light of the above it is appropriate to classify the letter as reasoned request for review and to provide a written reply as any other form of reply may be either misunderstood or misinterpreted.

On 27 May 2013 the Council adopted a Declaration which established its political commitment to review the restrictive measures against Syria at the expiry of the current sanction regime. The Council would review its complete ban on export of arms to Syria as then provided by Article 1 of the Council Decision 2012/739/CFSP concerning restrictive measures against

Syria¹. It would consider relaxing the then arms embargo by allowing the Member States to grant export licences on a case-by-case basis subject to adequate guarantees against misuse of authorisations. According to the Declaration *"the Council took note of the Member States' commitment that any sale, supply, transfer or export of military equipment would be intended for the protection of civilians"*. At this stage Member States were not competent to proceed with applications for licences.

The EO should first apology for the delay in replying and inform the complainant that her e-mail was treated as a request for review of the decision on the admissibility.

The complainant should be reminded that her initial complaint concerned the above-mentioned Declaration. It should be reiterated that her complaint did not concern a possible instance of maladministration by the Council but the substance of EU foreign policy towards Syria. Thus, the decision that the complaint fell outside the EO's mandate was correct. For reasons of completeness and clarity it should also be pointed that the EO has no mandate over the Member States.

The complainant should be encouraged to raise her concerns with the European Parliament and submit a petition. It should be noted that the EO finds that the complainant's right to petition to the Parliament is more appropriate mechanism to make her views on matters of EU foreign policy known in this case,

For reasons of completeness and clarity, it should be noted that following the adoption of the Declaration, on 31 May 2013 the Council adopted Decision 2013/255/CFSP² to give effect to its high-level political commitment.

The Council Decision contains the following changes to the arms embargo provisions of the Syria restrictive measures:

- by way of derogation allows the sale, supply, transfer or export of arms and related materiel, and on the provision of technical assistance, financing or financial assistance related to these items if such equipment is intended solely for humanitarian or protective use;

- by way of derogation allows the sale, supply, transfer or export of items which might be used for internal repression, and on the provision of technical assistance, financing or financial assistance related to these items if such equipment is intended solely for humanitarian or protective use.

Following the joint proposal from the High Representative of the Union for Foreign Affairs and Security Policy and the European Commission, on 22 July 2013 the Council adopted Regulation (EU) 697/2013 amending Regulation (EU) 36/2012 concerning restrictive measures in view of the situation in Syria³ implementing Council Decision 2013/255/CFSP.

However, the subsequent legislative acts are not relevant to the assessment of the initial decision on the admissibility of the complaint, thus, there is no need to be mentioned.

Approved by HoR: ☒

Date: 15/10/2013

In case of request for review:

Approved by SG: ☒

Date: 16/10/2013

¹ OJ 2012 L 330, p. 21.

² OJ 2013 L 147, p. 14.

³ OJ 2013 L 198, p. 28.

WALRAVENS Christophe

From: HARDEN Ian
Sent: 16 October 2013 11:04
To: MANDJUKOVA Tereza
Cc: ASSIMAKOPOULOU Zinovia; CHRISTENSEN Anne
Attachments: RE: 1007/2013/LP Request for review of an outside the mandate decision

Dear Tereza,

Thank you for your prompt and constructive response! The revised drafts are OK.

I copy the final version to Zina and to Anne, for information, in case the complainant publishes our reply in social media.

Best wishes,

Ian