

EUROPEAN EXTERNAL ACTION SERVICE



Head of Division

Brussels, **18 MAI 2016**
eeas.sg.affgen.2 (2016) 2875302

Mr. David Lewis
ask+request-2736-33244ce8@asktheeu.org

Subject: Your request for access to documents
Our ref: 2016/028

Dear Mr. Lewis,

Thank you for your request of 29 March 2016, for access to documents containing information "relating to the audit and checking by the EU through the PEGASE mechanism of the pre-approved list of named civil servants of the Palestinian Authority held by the PA Ministry of Finance". We have examined your request in the framework of Regulation (EC) No 1049/2001¹.

Please note that the deadline for our reply is based on the official working days of the EU institutions, and it is therefore 17/05/2016.

All relevant databases at the EEAS Headquarters do not contain information matching your request, and, further to our search, the Office of the European Representative in Jerusalem clarified that that EEAS is only in charge of the overall programming of financial assistance to the Palestinian Authority, whereas "Audit and checking" is part of its implementation, which DG NEAR of the European Commission handles. DG NEAR is therefore the originator of the auditing documents for the PEGASE programme, and we were informed that three types of audits exist:

- 1) Regular Ex-ante and ex-post verifications to identify and certify both the eligible and ineligible beneficiaries and certification that payments have been made to the right person and the right bank account. Full lists of beneficiaries (i.a. individual names) are an integral part of this process.
- 2) Global assessments are performed approximately every 18 months for the so-called Civil Service and Pensioners programme in order to audit the internal controls and procedures put in place by the Palestinian Authority.

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").

3) Annual financial audits are carried out to verify the funds disbursed.

Pursuant to the obligation laid down in Art 4(4) of the Regulation, we then consulted DG NEAR on whether or not these documents can be made public. On 13 of May, we received a negative reply, refusing disclosure, even partial, on the ground of the Article 4 of this Regulation:

- Article 4(2), third indent of Regulation 1049/2001 stipulates that the institutions shall refuse access to a document where disclosure would undermine the protection of the purpose of inspections, investigations **and audits**, unless there is an overriding public interest in disclosure. There is currently no evidence suggesting an overriding public interest in their disclosure.
- Also, Article 4(1)(b) stipulates that the institutions shall refuse access where disclosure would undermine the protection of privacy and the integrity of the individual, in particular in accordance with Community legislation regarding the protection of personal data. The requested documents includes naming of civil servants who benefit from PEGASE payments and its disclosure would go counter to their rights of protection of personal data.
- Disclosure of the documents to the general public could also undermine the protection of the public interests as regards international relations (Article 4(1)(a) third indent of the Regulation) since the PEGASE mechanism is a cornerstone in the EU-Palestine cooperation. On the question of an internal review, we confirm that the EEAS and the Commission have started a reflexion phase on the PEGASE mechanism, following the issuance of the Special Report No 14/2013 of the European Court of Auditors.

Should you wish this position to be reviewed, please note that DG NEAR of the European Commission is the DG responsible for the implementation of the PEGASE programme.

Yours sincerely,



Gabriele Visentin