

EUROPEAN EXTERNAL ACTION SERVICE



DG Budget and Administration
The Director-General

Brussels, 30 JAN. 2019
eeas.sg.affgen.2 (2018) 7168205

Mr Daan Fonck

Subject: Your request for access to documents
Our ref: 2018/155

Dear Mr Fonck,

Thank you for your letter dated 5 December 2018, which was transferred to the EEAS from the European Commission (DG NEAR). I have studied your confirmatory application in the framework of Regulation (EC) No 1049/2001¹.

As requested, I have examined the EEAS decision of 23 November 2018 not to grant access to the briefing drafted for the visit of Commissioner Füle. I can hereby confirm that the document in question contains sensitive information and cannot be *fully* released to the public for the reasons specified in our initial reply and as further explained in this reply.

However, I have also re-examined, as per Article 4(6) of the Regulation, whether a *partial* access to the document could be granted. Following a careful review, and considering the arguments brought forward in your confirmatory application, I came to the conclusion that some parts of Commissioner Füle's briefing can be disclosed. Therefore, I am pleased to forward to you the document, as redacted, in attachment to this letter.

In order to respond to the arguments of your confirmatory application, and clarify why the document cannot be fully released, allow me to add a few explanations.

Firstly, the briefing describes our internal analysis of the political situation in Ukraine and the region, of Ukraine's policies and intentions, as well as their possible impact on the EU. A one-sided public disclosure of this information would undermine the EU's relations with Ukraine.

Secondly, the briefing includes information received in confidentiality from Ukrainian interlocutors and stakeholders, whereby a public disclosure would represent a breach of trust of our interlocutors.

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").

Thirdly, the briefing feeds into the assessment that the Commissioner needs in order to evaluate his margin of manoeuvre in the diplomatic discussions. For instance, sensitive issues may be discussed in the context of diplomatic relations with due regard to all interests at stake. A unilateral release of sensitive information could be wrongly perceived by the third state or it could negatively influence public opinion in the third country.

Fourthly, I kindly remind you that the fact that the Association Agreement has been concluded and the government in Ukraine has changed, do not make the content automatically available for disclosure. The EU's relations with our partner countries are developed over a long period of time, and the bilateral items discussed remain beyond changes of government.

For the reasons above, I can confirm that it is in the public interest of protecting EU's interests in international relations as per Article 4(1)(a), third indent, and in the interest of protecting documents containing opinions for internal use as part of deliberations and preliminary consultations as per Article 4(3), second paragraph, of the Regulation not to disclose those parts of the documents which are covered by these exceptions.

In addition to the above, the briefing includes six pages of draft programmes and contact lists with names, as well as 14 pages with Curricula Vitae of interlocutors in the Annex to the briefing. Therefore those pages have been redacted in order to respect the provisions on data protection, i.e. non-disclosure of names of staff members, email addresses, physical addresses, telephone numbers and other personal data pursuant to Article 4(1)(b) of the Regulation.

I would also like to recall that we remain at your disposal to meet you, should you require further information. We regularly meet researchers for background discussions on the topics of their research. You are welcome to contact the Head of Division of Eastern Partnership - bilateral relations Mr Richard Tibbels (richard.tibbels@eeas.europa.eu).

If you are not satisfied with this response you may, in accordance with Article 8 of the Regulation, institute court proceedings against the European External Action Service and/or make a complaint to the Ombudsman, under the conditions laid down in Articles 263 and 228 of the Treaty on the Functioning of the EU respectively.

I kindly remind you that the disclosed excerpts of the document provided in attachment to this letter may not be copied or reproduced for commercial purposes without prior consultation with the EEAS.

Yours faithfully,



Gianmarco Di Vita

Bjorn Larsson
Director
Security & Infrastructure
EEAS