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WORKING PAPER

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WORKING DOCUMENT

From:	General Secretariat of the Council
To:	Security Committee
Subject:	Draft arrangement between the European Parliament, the Council and the High Representative of the Union for Foreign Affairs and Security Policy concerning access by the European Parliament to classified information held by the Council and the European External Action Service in the area of the common foreign and security policy - Background information

For information

Delegations will find attached background information concerning the outcome of assessments on the equivalence of the protection of EU classified information in the premises of the European Parliament in Brussels to the standards laid down in the Council Security Rules.

The Council Security Committee (CSC) asked the General Secretariat of the Council (GSC) to provide this information during a discussion regarding the future CFSP arrangement which took place at its meeting on 19 October 2021.

Background information

I. Determination of equivalence

1. In 2014, the Council determined that equivalence was achieved in accordance with Article 8(3) of the 2014 Interinstitutional Agreement (2014 IIA)¹ regarding information classified at the level RESTREINT UE/EU RESTRICTED in paper form in the European Parliament's premises in Brussels (ST 6716/14). This determination was necessary for the entry into force of the IIA.

The Council made this decision taking into account the CSC recommendation (ST 6435/14), which was based on the report of an assessment visit conducted in the EP premises on 6 September 2013 (ST 13538/2013, R-UE/EU-R).

2. In order to allow providing to the EP classified information at the level CONFIDENTIEL UE/EU CONFIDENTIAL and/or above under the same framework, further steps were taken. On 16 October 2015, GSC experts conducted a follow-up technical visit to the European Parliament's premises in Brussels. The outcome of this visit was documented in a report issued in ST 15489/1/15 R-UE/EU-R (partially declassified in ST 15489/1/15 EXT1).

As a result of this report, the CSC gave a favourable recommendation (ST 7997/16) that, although the global security project was not yet been fully implemented, the physical, organisational and procedural measures in place would allow handling and storing of classified information at the levels CONFIDENTIEL UE/EU CONFIDENTIAL and SECRET UE/EU SECRET and their equivalent in paper form in the European Parliament premises in Brussels. The Council subsequently confirmed this equivalence (ST 8870/16).

¹ Interinstitutional Agreement of 12 March 2014 between the European Parliament and the Council concerning the forwarding to and handling by the European Parliament of classified information held by the Council on matters other than those in the area of the common foreign and security policy (OJ C 95, 1.4.2014, p. 1–7).

3. On 9 April 2019, GSC experts conducted another technical assessment visit to the premises of the European Parliament in Brussels in order to evaluate if conditions are met for the EP to receive from the Council information classified at the level RESTREINT UE/EU RESTRICTED in electronic form. The experts reported that no negative observations or findings could be identified during the assessment. Consequently, the GSC recommended the CSC to endorse the use of the EP encryption tool ZEUS for the transmission of classified information to the EP, including for the transmission of the content related to the area of CFSP (WK 9795/19).

The determination of equivalence for the transmission of classified information by the Council to the European Parliament at the level RESTREINT UE/EU RESTRICTED in electronic form in the framework of the 2014 IIA was completed in 2020 (ST 5985/20 + COR1).

II. Experience gained in granting the EP access to classified information

4. Prior to the updating of the Council mandate in 2019 (ST 8513/19), the Working Party on General Affairs (GAG) was presented with a state of play on negotiations on the future arrangement as set out in WK 11496/18.
5. This document notes that the experience gained on sharing classified information with the EP has not led to any incident, be it in the area of CFSP or in areas other than CFSP. The 2014 non-CFSP IIA has been put into practice and classified documents are regularly forwarded to the EP.
6. The experience gained in granting the European Parliament access to CFSP classified information under the 2002 IIA2 (during the period 2006-2018) was overviewed in WK 13375/18.

² Interinstitutional Agreement of 20 November 2002 between the European Parliament and the Council concerning access by the European Parliament to sensitive information of the Council in the field of security and defence policy (OJ C 298, 30.11.2002, p. 1–3).

7. In addition to this, the GSC provided comprehensive replies to the questions of Member States regarding the future CFSP arrangement, including on the secure facilities in the EP premises. These replies can be found in WK 14438/18.
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