Council of the European Union

Brussels, 5 May 2026
(OR. en)

8837/26

API 89
INF 123

NOTE

From:	General Secretariat of the Council
To:	Delegations
Subject:	Public access to documents - Confirmatory application Nº 21/c/01/26- Information to delegations

Delegations will find attached:

- the request for access to documents sent to the General Secretariat of the Council on 16 March 2026 and registered on the same day (Annex 1);
- the reply from the General Secretariat of the Council dated 30 April 2026 (Annex 2);
- the confirmatory application dated 1 May 2026 and registered on 4 May 2026 (Annex 3).

ANNEX 1

From: DELETED
Sent: Monday, March 16, 2026, 4:42 PM
To: TRANSPARENCY Access to documents (COMM) <Access@consilium.europa.eu>
Subject: Refined and Updated Access to Documents Request – Ref. 26/1079

Dear Access to Documents Team,

Thank you for your previous correspondence regarding my request for access to documents under Regulation (EC) No 1049/2001 concerning the EU Border Assistance Mission at Rafah (EUBAM Rafah).

MORE SPECIFIC UPDATED REQUEST

Following my earlier submission, I am providing this updated and more specific version of the request in order to further narrow the scope and clearly identify the documents sought. This message is intended as a refinement of my previous request under reference number 26/1079, in line with your recommendation to reduce the scope of the application.

Accordingly, I respectfully request access to the following documents identified in the Council document register:

1. ST 7145/2026 INIT – NOTE
   CivCom Advice on the Coordinated Strategic Review of EUBAM Rafah and EUPOL COPPS (dated 9 March 2026).
2. WK 2180/2026 REV 5 – Working Document
   Draft CivCom Advice on the Coordinated Strategic Review of EUBAM Rafah and EUPOL COPPS (dated 9 March 2026).
3. WK 2180/2026 REV 4 – Working Document
   Draft CivCom Advice on the Coordinated Strategic Review of EUBAM Rafah and EUPOL COPPS (dated 5 March 2026).
4. WK 2180/2026 REV 3 – Working Document
   Draft CivCom Advice on the Coordinated Strategic Review of EUBAM Rafah and EUPOL COPPS (dated 2 March 2026).

These documents appear to relate to the coordinated strategic review and advisory process conducted by the Committee for Civilian Aspects of Crisis Management (CIVCOM) concerning the EU Border Assistance Mission at Rafah and the EU Police Mission for the Palestinian Territories.

This refined request remains well within the recommended limit of 25 documents and focuses specifically on CIVCOM advisory materials relating to the coordinated strategic review referenced above.

LEGAL BASIS FOR REQUEST

This request is submitted pursuant to the following provisions of European Union law governing transparency and public access to documents:

1. Regulation (EC) No 1049/2001 regarding public access to European Parliament, Council and Commission documents.
2. Article 15(3) of the Treaty on the Functioning of the European Union (TFEU), which establishes the right of access to documents of Union institutions, bodies, offices and agencies.
3. Article 42 of the Charter of Fundamental Rights of the European Union, which guarantees the right of access to documents as a fundamental right.
4. Article 298 of the Treaty on the Functioning of the European Union, which provides that EU administration shall conduct its work in an open, efficient, and transparent manner.
5. The general principle of transparency in EU governance, as consistently affirmed by the Court of Justice of the European Union.

Where relevant, this request is also made with reference to Regulation (EU) 2018/1725 concerning the protection of personal data processed by Union institutions, to the extent that requested documents may contain personal data requiring appropriate redaction.

PARTIAL ACCESS

If parts of the requested documents are subject to exceptions under Article 4 of Regulation (EC) No 1049/2001, I respectfully request partial access to the remaining portions of the documents with appropriate redactions where necessary.

OVERRIDING PUBLIC INTEREST

Should any exception be considered applicable, I respectfully request that the institution apply the overriding public interest test under Article 4(2) of Regulation (EC) No 1049/2001.

Transparency concerning the functioning of EU missions engaged in international border monitoring and institutional cooperation serves the public interest in accountability, transparency, and informed public understanding of institutional activities.

Thank you for your time and consideration of this refined request.
Please do not hesitate to inform me if any further clarification would assist in processing this application.

Kind regards,

DELETED

On Mon, Mar 16 2026, at 7:56 AM TRANSPARENCY Access to documents (COMM) <Access@consilium.europa.eu> wrote:

Dear **DELETED**,

On 16 March 2026 you introduced a request for public access to Council documents. We hereby acknowledge receipt of your request, to which we assigned the file reference number 26/1079.

You request access to:
1. Council decisions, mandates, or policy documents concerning the establishment, renewal, suspension, or operational status of EUBAM Rafah.
2. Operational reports or situation reports (SITREPs) relating to Rafah crossing monitoring activities.
3. Internal assessments, evaluations, or briefings regarding the Rafah crossing governance structure and monitoring arrangements.

4. Communications, correspondence, or coordination documents between the Council of the European Union and other EU institutions, including the European External Action Service, regarding Rafah crossing operations.
5. Documents related to the reopening, suspension, or monitoring status of Rafah crossing activities since 2005, including discussions of operational or security conditions.
6. Any Council-level briefings or internal reports regarding developments affecting Rafah crossing operations, including developments since May 2024.

The General Secretariat of the Council notes that your request covers a large number of documents.

I regret to have to inform you that our resources do not allow us to examine extensively your request without causing important delays in handling all the other requests.

In the light of the above, we would like to provide you with some suggestions to carry out fruitful preliminary research.

We kindly invite you to consult the Council's Public register.

By choosing the option "Advanced search", you can search for documents using several criteria, for example: document number, words in title or text, subject matter.

For your information, after introducing the word “Rafah” (in Subject) in the Public register, we have got 584 results.

We invite you to check the Public register and see which documents interest you and get back to us.

Kindly note that we cannot treat more than 25 documents.

By introducing a request with a reasonably narrower scope you will enable our service to handle it effectively within a reasonable timeframe, without negatively impacting on the handling of other requests addressed to our service at the same time.

Unless we hear from you again by 23 March 2026, we will close this file and look forward to your future new request.

Yours sincerely,

Transparency

General Secretariat of the Council
Directorate-General Communication and Information - COMM
Directorate Information and Outreach
Information Services Unit / Transparency
Rue de la Loi/Wetstraat, 175 - B-1048 Bruxelles/Brussel - Belgique/België
www.consilium.europa.eu | access@consilium.europa.eu

Disclaimer: The views expressed are solely those of the writer and may not be regarded as stating an official position of the Council of the EU
Clause de non-responsabilité : Les avis exprimés n'engagent que leur auteur et ne peuvent être considérés comme une position officielle du Conseil de l'UE

From: document-request@cis.consilium.europa.eu <document-request@cis.consilium.europa.eu>
Sent: Monday, March 16, 2026 5:18 AM
To: TRANSPARENCY Access to documents (COMM) <Access@consilium.europa.eu>
Subject: Consilium - Electronic Request for Access to documents [ENGLISH]

This e-mail has been sent to access@consilium.europa.eu using the electronic form available in the Register application.
This electronic form has been submitted in ENGLISH.

Title
DELETED

First name
DELETED

Family name
DELETED

E-mail
DELETED

Occupation
I submit this request on my own behalf.

Name of the organisation

Full postal address

Telephone

Requested document(s)
Access to Documents Request – Rafah Crossing Monitoring and Governance

Pursuant to Regulation (EC) No 1049/2001 regarding public access to European Parliament, Council and Commission documents, I respectfully request access to documents held by the **Council of the European Union relating to the Rafah border crossing monitoring framework and the activities of the **European Union Border Assistance Mission at Rafah (EUBAM Rafah).

I request access to the following categories of documents, including but not limited to:
1. Council decisions, mandates, or policy documents concerning the establishment, renewal, suspension, or operational status of EUBAM Rafah.
2. Operational reports or situation reports (SITREPs) relating to Rafah crossing monitoring activities.
3. Internal assessments, evaluations, or briefings regarding the Rafah crossing governance structure and monitoring arrangements.
4. Communications, correspondence, or coordination documents between the Council of the European Union and other EU institutions, including the European External Action Service, regarding Rafah crossing operations.
5. Documents related to the reopening, suspension, or monitoring status of Rafah crossing activities since 2005, including discussions of operational or security conditions.
6. Any Council-level briefings or internal reports regarding developments affecting Rafah crossing operations, including developments since May 2024.

Where possible, I request that the documents be provided in electronic format.

If parts of the requested documents fall under exceptions provided in Article 4 of Regulation 1049/2001, I kindly request that partial access be granted to the remaining portions of the documents.

This request is made in good faith for the purpose of understanding institutional governance and monitoring mechanisms associated with Rafah crossing operations.

1st option
EN
2nd option
FR

Council of the European Union
General Secretariat
Directorate-General Communication and Information – COMM
Directorate Information and Outreach
Information Services Unit / Transparency
Head of Unit

Brussels, 30 April 2026

DELETED
E-mail: **DELETED**

Ref. 26/1079

Request made on: 16.03.2026
Deadline extension: 04.04.2026

Dear **DELETED**,

Thank you for your request for access to documents of the Council of the European Union.[1]

Please find attached a partially accessible version of document **7145/26**.[2] However, I regret to inform you that full access cannot be given for the reasons set out below.

Document **7145/26**, dated 9 March 2026, represents a regular exercise for CivCom in providing its Advice on the strategic reviews of the civilian CSDP missions. The document outlines the comprehensive assessments of the implementation of EUBAM Rafal and EUPOL COPPS.

The Advice contains the general and specific considerations of the Council as well as recommendations on the next steps and future activities for the two missions, depending on certain conditions.

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[1] The General Secretariat of the Council has examined your request on the basis of the applicable rules: Regulation (EC) No 1049/2001 of the European Parliament and of the Council regarding public access to European Parliament, Council and Commission documents (OJ L 145, 31.5.2001, p. 43) and the specific provisions concerning public access to Council documents set out in Annex II to the Council's Rules of Procedure (Council Decision No 2009/937/EU, OJ L 325, 11.12.2009, p. 35).

[2] Article 4(6) of Regulation (EC) No 1049/2001.

The internal deliberations contained in the Advice and future decisions by the EU Member States regarding the two missions will depend to a large extend on the conditions on the ground, the security situation in the region, the relations with regional partners and key counterparts. Given the situation at the moment in the region, any announcements at this stage might be pre-mature and therefore be detrimental to the public interest as regards the EU's external relations, including the EU CSDP (relevant in the context of defence and military matters, as well as public security).

Given these elements, full disclosure of the document would undermine the protection of the public interest as regards public security, the European Union's defence and military matters, as well as international relations.

Moreover, the document concerns an issue which is still under discussion within the preparatory bodies of the Council.

Full disclosure of the document may pre-empt future decision-making by the Council and may also jeopardise the operations of ongoing missions.

Full disclosure of the document at this stage would seriously undermine the decision making-process of the Council.

Having examined the context in which the document was drafted and the current state of play on this matter, on balance the General Secretariat could not identify any evidence suggesting an overriding public interest in its full disclosure.

As a consequence, the General Secretariat has to refuse full access to the document at this stage.[3]

I regret to inform you that access to documents WK 2180/2026 REV3+ REV4+ REV5 cannot be given for the reasons set out below.

Document **WK 2180/2026 REV 3**, dated 2 March 2026, is a document addressed by the EEAS to the Committee for Civilian Aspects of Crisis Management, with the subject "Draft CivCom Advice on the Coordinated Strategic Review of EUBAM Rafah and EUPOL COPPS".

Document **WK 2180/2026 REV 4**, dated 5 March 2026, is a document addressed by the EEAS to the Committee for Civilian Aspects of Crisis Management, with the subject "Draft CivCom Advice on the Coordinated Strategic Review of EUBAM Rafah and EUPOL COPPS".

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[3] Article 4(1)(a), first, second and third indent, as well as Article 4(3), first subparagraph, of Regulation (EC) No 1049/2001.

Document **WK 2180/2026 REV 5**, dated 9 March 2026, is a document addressed by the EEAS to the Committee for Civilian Aspects of Crisis Management, with the subject "Draft CivCom Advice on the Coordinated Strategic Review of EUBAM Rafah and EUPOL COPPS".
Having duly consulted the originator of the document, the EEAS[4], and based on the information received from this body, the General Secretariat has come to the conclusion that access cannot be granted to the documents at this stage.

The documents assess the mandates of EUBAM Rafah and EUPOL COPPS in light of the evolving political and security context, setting out targeted, operational recommendations to provide clear political-strategic guidance for further planning and consideration by the Political and Security Committee.

The documents contain elements that are still subject to ongoing discussions and negotiations, in addition to sensitive assessments of the political and security environment, and of the recommended way forward. Their disclosure could undermine the EU's decision-making process and limit room for manoeuvre vis-à-vis external partners, particularly in view of the highly sensitive and volatile environment.

To reveal these elements at this moment could jeopardise the conclusion of an agreement within the Council and at the EU level. Disclosure of documents WK 2180/2026 REV 3+REV4+REV5 would therefore seriously undermine the Council's decision-making process. As a consequence, the General Secretariat has to refuse access to these documents.[5]

Having examined the context in which the documents were drafted and the current state of play on this matter, on balance the General Secretariat could not identify any evidence suggesting an overriding public interest in disclosure of the documents in question.

In addition, if the information contained in the documents were disclosed, the position of the Union would be seriously weakened. Disclosure of the documents would therefore undermine the protection of the public interest as regards international relations. As a consequence, the General Secretariat has to refuse access for this reason as well.[6]

We have also looked into the possibility of releasing parts of the documents.[7] However, as the information contained in each of the documents forms an inseparable whole, the General Secretariat is unable to give partial access at this stage.

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4 Article 4(4) of Regulation (EC) No 1049/2001.
5 Article 4(3), first subparagraph, of Regulation (EC) No 1049/2001.
6 Article 4(1)(a), third indent, of Regulation (EC) No 1049/2001.
7 Article 4(6) of Regulation (EC) No 1049/2001.

Pursuant to Article 7(2) of Regulation (EC) No 1049/2001, you may ask the Council to review this decision within 15 working days of receiving this reply. Should you see the need for such a review, you are invited to indicate the reasons thereof.

Yours sincerely,

Fernando FLORINDO

Enclosure

ANNEX 3

From: DELETED
Sent: Friday, May 1 2026, 8:05 AM
To: TRANSPARENCY Access to documents (COMM) <Access@consilium.europa.eu>
Subject: Confirmatory Application under Article 7(2) – Ref. 26/1079

Dear Sir or Madam,

I am writing to submit a confirmatory application under Article 7(2) of Regulation (EC) No 1049/2001 regarding my request for access to documents (Ref. 26/1079).

Following the General Secretariat's decision dated 30 April 2026, I respectfully request a full review of the partial refusal of access to the requested documents.

Please find attached my confirmatory application, which sets out in detail the grounds for this request, including concerns regarding the application of Article 4 exceptions, the absence of meaningful partial access, and the need for a concrete and individualized assessment of the material withheld.

I would appreciate confirmation of receipt of this submission and look forward to your response within the applicable time limits.

Thank you for your consideration.

Sincerely,
DELETED

Subject: Confirmatory Application under Article 7(2) – Ref. 26/1079

Dear Sir or Madam,

I am writing to submit a confirmatory application under Article 7(2) of Regulation (EC) No 1049/2001 concerning the General Secretariat's decision dated 30 April 2026 in response to my request for access to documents (Ref. 26/1079).

I acknowledge receipt of your reply and the partial disclosure of document 7145/26. However, I respectfully request a full review of the decision to refuse complete access to the requested documents.

1. Nature of the Requested Documents

The requested documents concern:

- Strategic review and advisory processes related to EUBAM Rafah and EUPOL COPPS
- Internal assessments of mission implementation and future planning
- Institutional coordination within EU governance structures

These documents directly relate to:

- EU external operations
- Governance of border monitoring mechanisms
- Institutional decision-making affecting international cooperation

As reflected in document 7145/26, the material forms part of structured advisory output to the Political and Security Committee.

2. Challenge to Article 4(1)(a) – Public Security / International Relations

The refusal relies on Article 4(1)(a), asserting that disclosure would undermine public security, defence and military matters, and international relations.

However, this justification is presented in a general and abstract manner and does not demonstrate:

- A specific, identifiable risk
- A reasonably foreseeable harm
- A concrete link between disclosure and potential damage

The case law of the EU Courts requires that exceptions be interpreted strictly and applied on the basis of a specific and concrete assessment. General or hypothetical risks are not sufficient to justify refusal.

No specific passage or portion of the documents has been identified as posing a concrete threat to the protected interests.

3. Challenge to Article 4(3) – Decision-Making Process

The refusal further relies on Article 4(3), asserting that disclosure would undermine the decision-making process.

However:

(a) The document reflects a completed advisory stage

Document 7145/26 is dated 9 March 2026, agreed by CivCom, and transmitted to the Political and Security Committee. This demonstrates that the document is not a preliminary draft but part of a completed advisory process.

(b) The "partial access" provided is not meaningful access

While the document is labeled as "partially accessible," the disclosed version removes the entirety of the substantive content. Core analytical sections are removed, and the "Considerations" section is entirely deleted. Large portions of the document are marked "DELETED," including entire sections spanning multiple pages.

As a result, the document provides only its structure and formal elements while withholding all meaningful content. It does not allow any understanding of the document's substance, reasoning, or recommendations.

(c) This constitutes a de facto full refusal

Under Regulation (EC) No 1049/2001, partial access must be meaningful and must reflect a genuine effort to disclose non-sensitive information. In this case, the complete removal of substantive content renders the access ineffective.

No reasoning is provided explaining why each deleted section is individually sensitive, and no effort is made to provide summaries, partial reasoning, or separable non-sensitive elements.

(d) Lack of individualized and proportional assessment

The decision does not demonstrate a line-by-line or section-by-section analysis, nor does it show a proportional balancing of transparency against the need for protection. Instead, it reflects a blanket approach to withholding content.

This does not meet the standard required under Article 4(3), which requires demonstrating that disclosure would seriously undermine the decision-making process.

4. Refusal of WK 2180/2026 REV 3–5 (EEAS Documents)

The refusal of the draft documents relies on consultation with the EEAS, ongoing discussions, and the sensitivity of political assessments.

However:

Consultation with the originating service does not replace the Council's obligation to conduct an independent assessment of whether the exceptions apply.

Draft status alone does not justify refusal. Transparency in preparatory processes is an essential component of democratic accountability, and draft documents are not automatically exempt from disclosure.

The claim that the documents form an "inseparable whole" is not substantiated. No explanation is provided as to why no portions can be released, why no redacted version can be meaningfully disclosed, or why non-sensitive elements cannot be separated.

5. Overriding Public Interest

The decision concludes that no overriding public interest exists, without providing substantive reasoning.

There is a clear overriding public interest in:

- Transparency of EU external missions
- Accountability in governance of border monitoring mechanisms
- Public understanding of institutional decision-making in sensitive geopolitical contexts

These interests are grounded in Article 15(3) TFEU and Article 42 of the Charter of Fundamental Rights.

6. Failure to Meet Transparency and Proportionality Standards

The current decision relies on broad and generalized reasoning, applies near-total redaction without detailed justification, fails to provide meaningful partial access, and does not demonstrate a proportional balancing of interests.

This does not meet the requirements of Regulation (EC) No 1049/2001.

If full access continues to be refused, I respectfully request that the Council identify with greater specificity the categories of information withheld and explain why less restrictive redactions would not be sufficient.

7. Request

In light of the above, I respectfully request that the Council:

1. Reassess the refusal decision in full

2. Provide expanded and meaningful partial access to documents 7145/26 and WK 2180/2026 REV 3–5
3. Conduct a detailed, individualized assessment of each redacted section
4. Reconsider the application of Article 4 exceptions in light of the overriding public interest

8. Closing

This confirmatory application is submitted in good faith and in accordance with Regulation (EC) No 1049/2001.

I respectfully request a formal response within the applicable time limits.

Sincerely,

[redacted]