



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 2 March 2010

6209/10

**INF 15
API 16
JUR 75**

COVER NOTE

from : General Secretariat of the Council
to : Working Party on Information

Subject : Public access to documents
- Confirmatory application made by Mr Alexander MacKenzie (No 05/c/01/10)

Delegations will find attached:

- A request for access to documents sent to the General Secretariat of the Council on 7 December 2009 and registered on the same day (Annex 1).
- A reply from the General Secretariat of the Council dated 4 February 2010 (Annex 2).
- A confirmatory application dated 8 February 2010 and registered on the same day (Annex 3).

[E-mail message sent on 7.12.2009 - 14:59]

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 EN

Title/Gender: Mr - Mr

Family Name: MacKenzie

First Name: Alexander

E-Mail: A.Mackenzie@pgr.salford.ac.uk

Occupation: PhD Student

On behalf of: Myself

Address: 6 Ella Dene Park
Chorlton
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Requested document(s): EU Counter-terrorism Clauses: Assessment
14458/2/04
18 November 2004

I have seen the partially declassified version and would like to see the document with as much declassified information as possible. This is important for my PhD research. Thank you.

1st preferred linguistic version: EN - English

2nd preferred linguistic version: EN - English



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THE EUROPEAN UNION**

GENERAL SECRETARIAT

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Brussels, 4 February 2010

Mr Alexander MacKenzie

e-mail:

A.Mackenzie@pgr.salford.ac.uk

09/2595-ws/jj

Dear Mr MacKenzie,

Your request of 7 December 2009 for access to document 14458/2/04 REV 2 has been registered by the "Access to Documents" unit. Thank you for your interest.

The General Secretariat of the Council has examined your request on the basis of Regulation (EC) No 1049/2001 of the European Parliament and of the Council regarding public access to European Parliament, Council and Commission documents (Official Journal 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, Official Journal L 325, 11.12.2009, p. 35) and has come to the following conclusion:

Document **14458/2/04 REV 2** is a note from the EU Counter-Terrorism Co-ordinator and the Commission for the Political and Security Committee containing an assessment of the EU Counter-Terrorism Clauses. The document is partially classified "RESTREINT UE", which means that the unauthorised disclosure of this information could be disadvantageous to the interests of the European Union or of one or more of its Member States¹.

In spite of a thorough re-examination of the document, the General Secretariat still has to confirm that disclosure of all parts currently classified would seriously harm the EU's fight against terrorism, since they would provide third parties with detailed inside information as to the EU's goals and tactics in this field. Disclosure would thus prejudice the effectiveness and impact of the EU strategy to prevent terrorist threats and attacks.

¹ Council's Security Regulations, Decision 2001/264/EC of 19 March 2001, OJ L 101, 11.04.2001, p. 1.

Moreover, the classified parts of this document contain a range of model counter-terrorism clauses to be inserted in future agreements with third countries with a view to developing judicial cooperation and cooperation between law-enforcement agencies and bodies. They are thus part of the EU's negotiating position with these countries, whose disclosure would impede the good conduct of such negotiations.

Accordingly, pursuant to Article 4(1)(a), first and third indent of the Regulation (protection of the public interest with regard to public security and with regard to international relations), the General Secretariat is unable to accede to your request.

Therefore, the General Secretariat is not in a position, pursuant to Article 4(6) of the Regulation, to grant access to any further part of the document.

According to Article 7(2) of the Regulation, you may submit a confirmatory application requesting the Council to reconsider this position, within 15 working days of receiving this reply ¹.

Yours sincerely,

For the General Secretariat

Jakob Thomsen

¹ Should you decide to do so, then please indicate whether you permit the Council to make your confirmatory application fully public in the Council's Register of documents. If you do not reply or reply in the negative, then your application will be dealt with confidentially. Your reply will in no way prejudice your rights under Regulation (EC) No 1049/2001.

[Confirmatory application sent by e-mail on 8 February 2010 - 10:39]

To whom it may concern,

Further to your reply on 4 February 2010, I would like to make a confirmatory application to ask the Council to reconsider its position on the document 14458/2/04 REV 2 in line with Article 7(2). I am happy for this to be made fully public. Thank you.

Best

Alex MacKenzie
