



EUCAP Somalia

Standard Operating Procedures (SOP) on Public Access to Documents

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By virtue of the authority vested in me pursuant to the Foreign Affairs Council of the European Union's Decision no. (CFSP) 2018/1942 of 10 December 2018 extending and amending Decision 2012/389/CFSP on the European Union Capacity Building Mission in Somalia (EUCAP Somalia) and Article 4.3.1. in the Mission's Operations Plan (OPLAN), I hereby promulgate the following Standard Operating Procedures (SOP) on Public Access to Documents:

1 References

- (1) Charter of Fundamental Rights of the European Union (2000/C 364/01.)
- (2) Regulation (EC) no. 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (Reg. 1049/-2001.)¹
- (3) Decision no. 2011/C 243/08 of the High Representative of the European Union for Foreign Affairs and Security Policy/Vice-President of the European Commission (HR/VP) of 19 July 2011 on the rules regarding access to documents.²
- (4) Council Decision no. 2013/488/EU of 23 September 2013 on the Security Rules for Protecting EU Classified Information (EUCI).³
- (5) The Civilian Operations Commander's (CIVOPSCDR's) Instruction of 10 January 2020 on the implementation of a model SOP on Public Access to Documents.

2 Definitions

- | | | |
|------|-----------|---|
| (1) | CFSP | Common Foreign and Security Policy |
| (2) | CIVOPSCDR | Civilian Operations Commander |
| (3) | CPCC | Civilian Planning and Conduct Capability |
| (4) | CSDP | Common Security and Defence Policy |
| (5) | DHOM | Deputy Head of Mission |
| (6) | EUCI | EU Classified Information |
| (7) | HOM | Head of Mission |
| (8) | HR/VP | High Representative of the European Union for Foreign Affairs and Security Policy/Vice-President of the European Commission |
| (9) | LEGAD | Legal Adviser |
| (10) | MM | Mission member |
| (11) | SOP | Standard Operating Procedures |

¹ Official Journal of the European Union (OJ) L 145, 31.5.2001, p. 43.

² OJ C 243, 20.8.2011, p. 16.

³ OJ L 274, 15.10.2013, p. 1



3 Background and purpose

(1) Missions under the European Union's (EU's) Common Security and Defence Policy (CSDP) shall guarantee the right of public access to documents as one of the fundamental rights and freedoms enshrined in Article 42 of the Charter of Fundamental Rights of the European Union (the Charter).⁴

(2) Provisions on public access to documents applicable to CSDP missions should reflect, by analogy, the principles stemming from the legal framework on public access to documents applicable to the EU institutions. These are the Regulation (EC) no. 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (Reg. 1049/2001)⁵. Moreover, the decision of the High Representative of the European Union for Foreign Affairs and Security Policy/Vice-President of the European Commission (HR/VP) of 19 July 2011 on the rules regarding access to documents (2011/C 243/08; HR/VP's Decision).

(3) This SOP defines the principles, conditions and limits for public access to documents in EUCAP Somalia (the Mission.)

4 Scope

Any EU citizen or any natural or legal person residing or having its registered office in an EU Member State (EU MS) has right of access to the Mission's documents, pursuant to the principles, conditions and limits set out in Reg. 1049/2001 and this SOP. The right of access concerns documents held by the Mission, i.e. documents prepared or received by it and in its possession.

To ensure a right of access commensurate to that under the HR/VP's Decision, any natural or legal person not residing or not having their registered office in one of the EU MS shall enjoy the right of access to the Mission's documents, referred to in the preceding paragraph, in accordance with the same principles, conditions and limits.

5 Applications

(1) An application for access to a Mission document shall be sent by post or by e-mail to the Mission as follows:

(a) By letter to the Mission's postal address:

EUCAP SOMALIA,
Aden Abdule International Airport,
Bancroft International Compound,
Mogadishu, Somalia, or

(b) By e-mail at press@eucap-som.eu

Once an application has been registered, an acknowledgement of receipt shall be sent to the applicant.

⁴ Article 42 on Right of access to documents: "Any citizen of the Union, and any natural or legal person residing or having its registered office in a Member State, has a right of access to European Parliament, Council and Commission documents."

⁵ OJ L 145, 31.5.2001, p. 43



- (2) Upon registration, the application shall be processed by the Mission and forwarded to the Legal Adviser of the Civilian Planning and Conduct Capability (CPCC) for information.

6 Time limits

- (1) The Mission shall answer initial and confirmatory applications within 15 working days of the date of registration of the application.
- (2) If an application is imprecise or unclear, the Mission shall invite the applicant to provide additional information to make it possible to identify the requested documents. In this case, the deadline for reply shall commence from the time when the Mission has received the additional information.
- (3) In the following exceptional cases the deadlines set out in the preceding paragraphs may be extended by 15 working days:
- (a) In case of complex or bulky applications; or,
 - (b) If consultation of a third party is required.
- (4) The applicant and the CPCC shall be informed of any such extension and of the reasons for it.

7 Negative response

- (1) If the answer to an application is even partially negative it shall state the reasons for the refusal based on one of the exceptions set out in Reg. 1049/2001 and the applicant shall be informed of his or her right to submit a confirmatory application.
- (2) If a document has been transmitted to a third party and is no longer held the Mission shall inform the applicant of the transmission allowing the latter to redirect his or her inquiry.

8 Handling of replies

- (3) Answers to initial applications shall be processed by the mission member (MM) holding the most relevant position to reply to the request, in consultation with the Mission's Registry Office and Legal Adviser (LEGAD) as needed. After consulting the CPCC the reply should be signed by the Deputy Head of Mission (DHOM.)
- (4) Answers to confirmatory applications shall be decided upon by the Head of Mission (HOM) after consultation with the LEGAD and the CPCC.

9 Third-party documents held by the Mission

- (1) If the Mission receives an application for a document it holds but which originates from a third party the third party shall be consulted unless it is clear that the document should or should not be disclosed as per the exceptions set out in Reg. 1049/2001.
- (2) The application shall be granted without consultation of the third party if the document has already been made public by its originator.



10 Classified documents

- (1) If an application for access to a document concerns EU Classified Information (EUCI) within the meaning of Council Decision no. 2013/488/EU of 23 September 2013 on the Security Rules for Protecting EU Classified Information, it shall be processed only by MMs with authorised access to the document.
- (2) In case access is denied reasons shall be provided based on the exceptions listed in Article 4 of Reg. 1049/2001 for any decision denying such access to all or parts of a classified document. If access to the requested document does not fall within those exceptions the MM processing the application shall ensure that the document is declassified before it is shared with the applicant.

11 Modalities of access

- (1) Documents to which access has been granted shall be sent to the applicant by mail or e-mail. If the requested documents are voluminous or difficult to process, the applicant may be invited to view them in the Mission's premises.
- (2) If the document already has been released to the public an answer may consist in directing the applicant how to obtain the requested document, e.g. by providing the web address where it may be found.

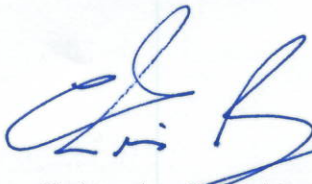
12 Final provisions

- (1) This SOP shall enter into force upon signature by the HOM. It shall remain in force until repealed or until the Mission's mandate expires or is terminated.
- (2) The existence of this SOP shall be communicated to all MMs without undue delay.

13 Entry into Force

This SOP shall enter into force on the date signed by the Head of Mission.

HEAD OF MISSION


Christopher Reynolds
12/06/2020

