



**EIROPAS SAVIENĪBAS
PADOME**

**Briselē, 2008. gada 18. jūlijā
(OR. en)**

11505/08

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"I/A" PUNKTA PIEZĪME

Sūtītājs: : Informācijas jautājumu darba grupa

Saņēmējs : Pastāvīgo pārstāvju komiteja (II)/ Padome

Iepr. dok. Nr.: 11504/08

Temats: Publiska piekļuve dokumentiem

- *Martin OTTMANN* kunga atkārtots pieteikums Nr. 08/c/02/08

Pielikumā pievienots projekts Padomes atbildei uz *Martin OTTMANN* kunga atkārtotu pieteikumu (08/c/02/08), kāda tā ir pēc tam, kad to izskatīja Informācijas jautājumu darba grupa 2008. gada 17. jūlija sanāksmē.

Pastāvīgo pārstāvju komiteja ir attiecīgi lūgta ierosināt, lai Padome nākamajā sanāksmē kā darba kārtības "A" punktu pieņemtu lēmumu, apliecinot, ka tā atbalsta šim dokumentam pievienoto atbildes projektu.

Pielikums pieejams tikai angļu valodā.

DRAFT
REPLY ADOPTED BY THE COUNCIL ON
TO CONFIRMATORY APPLICATION 08/c/02/08
made by Mr Martin Ottmann to the Council
by e-mail on 4 July 2008,
pursuant to Article 7(2) of Regulation (EC) No 1049/2001,
for public access to document 15404/06.

The Council has carefully considered the application under Regulation (EC) No 1049/2001 (OJ L 145 of 31.5.2001, p. 43) and Annex II to the Council's Rules of Procedure (Council Decision 2006/683/EC, Euratom - OJ L 285 of 16.10.2006, p. 47) and has come to the following conclusion:

1. The applicant refers to document 15404/06 which contains a note from the Council Secretariat containing *the Outcome of the EU-US Ministerial Troika on Justice and Home Affairs held in Washington on 6 November 2006*.
2. By letter dated 19 June 2008 the General Secretariat granted partial access to this document, while withholding certain parts that contain comments expressed by the representatives of the United States on the issues discussed during the meeting and/or relate to cooperation in law enforcement matters and the situation in certain third countries. Public access to these parts was refused pursuant to Article 4(1)(a), third indent, of the Regulation 1049/2001 (protection of the public interest with regard to international relations).
3. In an email of 4 July 2008, the applicant submitted a confirmatory application concerning part 2 of document, entitled "Terrorism". Whilst referring in his confirmatory application to Articles 19 and 42 of the Charter of Fundamental Rights of the European Union and to recital (2) and Articles 2, 3 and 4 of Regulation 1049/2001, the applicant essentially claims that any refusal to grant full access to part 2 of the requested document is tantamount to *"condoning and supporting secrecy and covering up possible rights violations"*.

4. The Council has thoroughly re-examined the document concerned and carried out consultations with the department of its General Secretariat in charge of this matter, and has come to the following conclusion:
5. Document 15404/06 sets out the outcome of discussions on questions of EU-US co-operation in the field of transport, terrorism, illegal immigration and border security as well as organised crime. This report delivers detailed information on the objectives of both parties in these areas of common interest and ideas for possible ways forward regarding those issues. It includes, among others, a state of play on key matters such as data protection, counter-terrorism, visa waiver issues and trafficking in human beings.
6. The Council considers that, given the sensitive content of the point 2 of the document, its full release to the public would undermine the protection of the public interest as regards the EU's international relations. Disclosure would jeopardise the good functioning of the EU-US cooperation as such. If the United States had reason to believe that the positions taken by it on this and other security issues in meetings not open to the public could be made public unilaterally by the EU side, it would be difficult, if not impossible, to address controversial issues between the two sides in this format in the future. This would not only breach the mutual confidence in the future negotiations but also, in turn, make it considerably more difficult to find solutions to all the outstanding issues. Certain positions expressed by the EU side contained in point 2 could also have a negative impact on relations with certain other third countries.
8. The Charter of Fundamental Rights of the European Union has not yet entered into force. The current framework is Article 255 of the EC Treaty, on which Regulation 1049/2001 - hence also Articles 2, 3 and 4(1)(a) thereof - are based.
9. Full access to point 2 of the document 15404/06 is therefore denied pursuant to Article 4(1)(a), third indent, of the Regulation (protection of the public interest as regards international relations).

10. However, the Council has thoroughly re-examined the content of this passage to check whether it was possible to grant partial access pursuant to Article 4(6) of the Regulation and decided that, in addition to those parts of the document that were released following his initial request, the applicant can inspect one further part which is not covered by any of the exceptions of the Regulation.
