

Rules regarding public access to European Union Satellite Centre documents

The Board of the European Union Satellite Centre,

Having regard to the Council Decision 2014/401/CFSP of 26 June 2014 on the European Union Satellite Centre and repealing Joint Action 2001/555/CFSP on the establishment of a European Union Satellite Centre (SatCen), hereinafter “the Council Decision”¹, and in particular Article 16 thereof,

Having regard to the regulation (EC) No 1049/2001 of 30 May 2001 regarding public access to European Parliament, Council and Commission documents,

Whereas:

- The necessary measures should be taken to inform the public and to facilitate access by citizens to the documents of the European Union Satellite Centre (hereinafter, referred to as the Agency);
- On account of the highly sensitive content of the information processed by SatCen, certain documents should be given special treatment. In accordance with Article 15 of the Council Decision, the SatCen shall apply Council Decision 2013/488/EU² on the security rules for protecting EU classified information.

HAS ADOPTED THESE RULES:

Article 1 **Purpose**

The purpose of these rules is to set out the principles, conditions and procedures governing the right of access to documents held by the European Union Satellite Centre .

¹ Official Journal (OJ), L 188, 27.06.2014, p.73

² Council Decision 2013/488/EU of 23 September 2013 on the security rules for protecting EU classified information (OJ L 274, 15.10.2013, p. 1).

Article 2
Beneficiaries and scope

- a) Any natural or legal person residing or having its registered office in a Member State, has a right of access to the documents of the Agency, including the documents of third parties in its possession, subject to the principles, conditions, limits and exceptions defined by these rules.
- b) Classified documents as defined in Article 7 shall be subject to special treatment in accordance with that Article.

Article 3
Definitions

For the purpose of these rules:

- a) «Document»: means any content whatever its medium (written on paper or stored in electronic form or as a sound, visual or audio-visual recording) concerning a subject relating to the Agency's activities, with the exception of Satellite images, collateral data acquired by the Agency.
- b) «Third party»: shall mean any natural or legal person, or any entity outside the Agency, including the Member States, other EU Institutions, bodies, agencies and entities and third countries.

Article 4
Applications

- a) Applications for access to a document shall be made in any written form and directly addressed to the SatCen by e-mail to: info@satcen.europa.eu. The decisions concerning initial and confirmatory access requests shall be taken by the Agency within a period of 15 working days from the receipt of such requests by the Agency.

In exceptional cases, for example in the event of an application relating to a very long document or to a very large number of documents, the time-limit provided for in the previous paragraph may be extended by 15 working days, provided that the applicant is notified in advance and that detailed reasons are given.

- b) Any decision to refuse, in whole or in part, an initial request for access to a document must be justified in a written response. When refusing access to classified documents, SatCen shall give reasons for its decision in a manner which does not prejudice the interests protected by Article 6.
- c) Any decision to refuse access to a document gives the author of the initial request the right to submit a confirmatory request. This request shall be addressed to the Director of the Agency.
- d) Within the time limit provided in paragraph 1, the Director of the Agency shall either grant access to the requested document or provide, in a written response, the reasons for the total or partial refusal.
- e) A complaint can be addressed to the European Ombudsman who shall be competent to review a partial or wholly negative reply to a confirmatory application.

Article 5

Access following an application

- a) The applicant shall have access to documents either by consulting them on the spot or by receiving a copy, including, where available, an electronic copy.
- b) The cost of producing and sending copies may be charged to the applicant. This charge shall not exceed the real cost of producing and sending the copies.
- c) Consultation on the spot, copies of less than five A4 pages and direct access in electronic form shall be free of charge.

Article 6

Exceptions

- a) The Agency shall refuse access to a document where the disclosure would undermine the protection of privacy and the integrity of the individual, in particular in accordance with the applicable Data Protection Regulation.
- b) The Agency shall refuse access to a document where the disclosure would undermine the protection of:
 - i. The public interest as regards: public security, defence and military matters, international relations, the financial, monetary or economic policy of the Union or a Member State;
 - ii. The commercial interests of a natural or legal person, including intellectual property;

- iii. Court proceedings and legal advice;
 - iv. The purpose of inspections, investigations and audits;
unless there is an overriding public interest justifying the disclosure of the document referred to in cases ii), iii) and iv).
- c) SatCen products, as defined in Article 2 of the Council Decision, are developed and provided in accordance with the Agency's mission, exclusively for institutional authorized users, under the exclusive operational direction of the High Representative of the European Union for Foreign Affairs and Security Policy. Public access to SatCen's products, by the nature of said products, would undermine the protection of the public interest with respect to public security, defence and military matters and international relations under Article 6(b) (i) of these rules, consequently, any requests to access shall be refused.
- d) Access to a document, drawn up by the Agency for internal use or held by the Agency, which relates to a matter where the decision has not been taken by the Agency, shall be refused if disclosure of the document would seriously undermine the Agency's decision-making process, unless there is an overriding public interest in disclosure;
- e) Access to a document containing opinions for internal use as part of deliberations and preliminary consultations within the Agency shall be refused even after the decision has been taken, if disclosure of the document would seriously undermine the Agency decision-making process, unless there is an overriding public interest in disclosure.
- f) As regards third-party documents, the Agency shall consult the third party with a view to assessing whether an exception in paragraph a) or b) is applicable, unless it is clear to the Agency that the document shall not be disclosed. A Member State, EU institutions, bodies, offices and agencies may request the Agency not to disclose a document originating from them without its prior agreement.

Article 7

Treatment of classified documents

- a) Classified documents are documents originating from the institutions or the agencies established by them, from Member States, third countries or International Organisations, classified as 'TRÈS SECRET UE/EUTOP SECRET', 'SECRET UE/EU SECRET' or 'CONFIDENTIEL UE/EU CONFIDENTIAL', 'RESTREINT UE/EU RESTRICTED' in accordance with the rules of the Agency, the unauthorised disclosure of which could cause varying degrees of prejudice to the interests of the European Union or of one or more of its Member States in the areas covered by Article 6 (b)(i), notably public security, defence and military matters.
- b) Applications for access to classified documents shall be handled exclusively by the Director or by the Head of Security.

- c) Classified documents shall not be recorded in the Register referred to in Article 8 of these rules, unless the originating authority consents thereto.
- d) Any decision to refuse access to a classified document shall be based on grounds which do not prejudice the interests protected by Article 6.

Article 8
Register

The Agency shall maintain a Register of documents.

References to documents shall be entered in the Register. They shall not prejudice the protection of the interests referred to in Article 6.

Article 9
Reproduction of documents

These rules shall be without prejudice to any existing rules on copyright, which may limit a third party's right to reproduce, or exploit released documents.

Article 10
Entry into force

These rules shall enter into force on the date of their adoption by the SatCen Board.