



**EUNAVFOR MED Operation SOPHIA
EU HEADQUARTERS**

ROME

Subject: Policy regarding access to documents.

1. Purpose

The purpose of this policy is to define the principles, conditions and limits for the public access to documents in the Operation *EUNAVFOR MED – operation SOPHIA* – (hereinafter ‘EUNAVFOR MED’).

2. Legal Framework

- a. The principles which are applicable to the public access to documents in EUNAVFOR MED are, by analogy, those which stem from the legal framework applicable to the EU institutions:
 - i. Article 42 of the Charter of Fundamental Rights of the European Union: *"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 documents of the institutions, bodies, offices and agencies of the Union, whatever their medium";*
 - ii. *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* (hereinafter, Regulation (EC) No 1049/2001).
- b. EUNAVFOR MED is a military crisis management operation established by the Council through the Council Decision 2015/778 of 18 May 2015. Thus, EUNAVFOR MED is separate from the EU institutions and bodies within the meaning of Article 15 of the Treaty on the Functioning of the European Union.
- c. It is clear from the Council Decision 2015/778 of 18 May 2015 that the EUNAVFOR MED is not a EU body. Therefore, the legal framework for public access to documents applicable to EU institutions and bodies (*i.e.* the Regulation (EC) No 1049/2001) does not directly apply to EUNAVFOR MED.
- d. In order to fill this legal vacuum, there is a need to adopt a specific policy for public access to documents. With a view to ensure an adequate level of transparency, equivalent to that provided by other EU bodies, especially the European External Action Service, the EUNAVFOR MED takes as a reference and commits to apply by analogy the principles

enshrined in the Regulation (EC) No 1049/2001 as well as the *Decision of the High Representative of the Union for Foreign Affairs and Security Policy of 19 July 2011 on the rules regarding access to documents (2011/C 243/08)*.

3. Scope

- e. Any citizen of the Union, or any natural or legal person residing or having its registered office in a Member State, shall have a right of access to EUNAVFOR MED documents according to the principles, conditions and limits laid down in the Regulation (EC) No 1049/2001 and the specific provisions laid down in this policy. This right of access concerns documents held by the EUNAVFOR MED, namely, documents drawn up or received by it and in its possession.
- f. In order to ensure a level of right of access equivalent to the *Decision of the High Representative of the Union for Foreign Affairs and Security Policy of 19 July 2011 on the rules regarding access to documents (2011/C 243/08)*, any natural or legal person not residing, or not having their registered office, in one of the Member States shall enjoy the right of access to EUNAVFOR MED documents, subject to the same principles, conditions and limits laid down in the Regulation and the specific provisions laid down in this policy.

4. Making an application

- g. An application for access to an EUNAVFOR MED document shall be sent by post or by e-mail to the Spokesperson as follow:
 - i. Posta address: Via di Centocelle, 301 - 00175 Rome (Italy);
 - ii. E-mail: spokesperson@euohq.difesa.it
- h. As soon as the application is registered, an acknowledgement of receipt shall be sent to the applicant.

5. Time limits

- a. EUNAVFOR MED shall answer initial and confirmatory applications within 15 working days of the date of registration of the application.
- b. If an application is imprecise or unclear, EUNAVFOR MED shall invite the applicant to provide additional information to make it possible to identify the documents requested. In this case the deadline for reply shall run only from the time when EUNAVFOR MED has received this additional information.
- c. In the following exceptional cases the deadlines may be extended by 15 working days:
 - i. in the case of complex or bulky applications;
 - ii. if consultation of a third party is required.

The applicant shall be informed of any such extension and of the reasons for it.

6. Negative response

- a. If the answer to an application is even partly negative, it shall state the reasons for the refusal based on one of the exceptions set out in the Regulation, and inform the applicant of his right to submit a confirmatory application (in the case of an answer to an initial application).
- b. If a document has been transmitted to a third party and is no longer held, the Operation shall inform the applicant of the transmission, thereby allowing the latter to redirect their enquiry.

7. Handling of replies

- a. Answers to initial applications shall be handled by the Spokesperson, on the advice of the Legal Advisor and Political Advisor.
- b. Answers to confirmatory applications shall be decided upon by the Operation Commander Military Assistant, on the advice of the Legal Advisor and Political Advisor.

8. Third party documents held by the EUNAVFOR MED

- a. Where the EUNAVFOR MED receives an application for a document which it holds, but which originates from a third party, the third party shall be consulted unless it is clear that the document shall or shall not be disclosed, in light of the exceptions set out in the Regulation (EC) No 1049/2001.
- b. The application shall be granted without consultation of the third party if the document has already been made public by its originator.

9. Consultation of the EUNAVFOR MED

- c. Requests for consultation of the EUNAVFOR MED by a third party which has received an application for a document within its possession but which originates from the EUNAVFOR MED, shall be sent to the Legal Advisor of the Operation as follows:
 - i. Posta address: Via di Centocelle, 301 - 00175 Rome (Italy);
 - ii. E-mail: legad@euohq.difesa.it
- d. The EUNAVFOR MED shall give its opinion promptly, within an indicative time frame of five working days.

10. Classified documents

- a. Where an application for access to a document concerns EU classified information (EUCI) within the meaning of Council Decision of 23 September 2013 on the security rules for protecting EU classified information, it shall be handled only by officials entitled to acquaint themselves with the document.
- b. Reasons shall be given on the basis of the exceptions listed in Article 4 of the Regulation (EC) No 1049/2001 for any decision refusing access to all or part of a classified document. If access to the requested document cannot be refused on the basis of those

exceptions, the official handling the application shall ensure that the document is declassified before it is sent to the applicant.

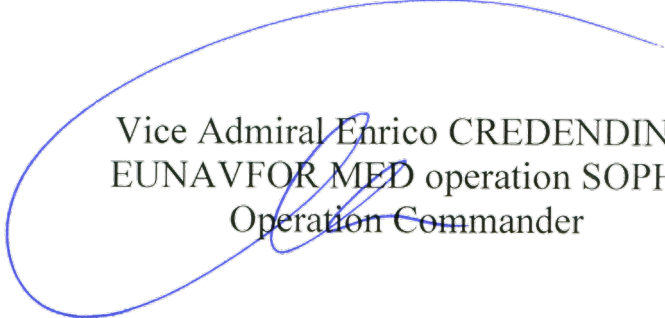
11. Modalities of access

- a. Documents to which access has been granted shall be sent to the applicant by mail or e-mail. If the documents requested are voluminous or difficult to handle, the applicant may be invited to consult them on the spot.
- b. If the document has been already released to the public, an answer may consist in informing the applicant how to obtain the requested document (*i.e.* providing the web address where it may be found).

12. Effect

This decision shall take effect on the day of its signature and it shall be published on the EUNAVFOR MED official website.

Rome, 25/07/2019



Vice Admiral Enrico CREDENDINO
EUNAVFOR MED operation SOPHIA
Operation Commander