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Inter-office memorandum to the Director of the Executive Office of the Secretary-General, concerning a request for information regarding the Organization's involvement in an exchange of detainees

REQUEST FOR INTERNAL CONFIDENTIAL UNITED NATIONS INFORMATION AND DOCUMENTATION—CONVENTION ON THE PRIVILEGES AND IMMUNITIES OF THE UNITED NATIONS, 1946—INVIOLABILITY OF UNITED NATIONS DOCUMENTS AND ARCHIVES

1. This is in response to your note of 15 December 1994 to the Legal Counsel seeking our advice on a letter from [Name 1] to [Name 2]. In her letter, [Name 1] requests information and documentation concerning the involvement of the Organization in the release of her uncle, [Name 3], from [Member State A] captivity. You have also forwarded to this Office documentation obtained from the United Nations Archives and Records Management Section (ARMS) relating generally to the exchange of detainees between [Member State B] and [Member State A] in [year] and occasionally to the specific case of [Name 3]. You indicate that [Name 1]'s request "might well stem from intentions to pursue litigation" and you seek our views on whether the material available on this case could be released to her.

2. We note that the information and documentation requested is internal and confidential and relates to official United Nations work, and moreover that the documentation contains politically sensitive information concerning the exchange of detainees (including [Name 3]) between [Member State B] and [Member State A], and the procedure of such exchange. The documentation is United Nations property and forms part of the United Nations archives, and is inviolable in terms of sections 3 and 4 of the Convention on the Privileges and Immunities of the United Nations.* In this case we see no reason for departing from our normal policy and practice of declining to provide internal and confidential information relating to official matters to private persons.

[...]

11 January 1995

* United Nations, *Treaty Series*, vol. 1, p. 15 and vol. 90, p. 327 (corrigendum to vol. 1).

Inter-office memorandum to the Under-Secretary-General for Peacekeeping Operations, concerning a Member State's request to review a United Nations Mission's files on missing persons

UNITED NATIONS DOCUMENTS OVER TWENTY YEARS OLD AND NOT SUBJECT TO CONFIDENTIALITY RESTRICTIONS MAY BE MADE ACCESSIBLE TO THE GENERAL PUBLIC—ADMINISTRATIVE INSTRUCTION ST/AI/326—CONVENTION ON THE PRIVILEGES AND IMMUNITIES OF THE UNITED NATIONS, 1946—INVIOABILITY OF UNITED NATIONS ARCHIVES AND DOCUMENTS—UNITED NATIONS DOCUMENTS AND ARCHIVES MAY BE VOLUNTARILY RELEASED SUBJECT TO CONSIDERATION OF THE NATURE AND CONTENT OF THE DOCUMENTS AS WELL AS ANY POLICY CONCERNS ARISING THEREFROM

1. This is with reference to your memorandum of 16 June 1995 concerning the [Member State A] request for access to the [United Nations Mission] files dealing with the events of late June to mid-August 1974 for purposes of a Government investigation into the whereabouts of five [Member State A] citizens missing in [Member State B] since 1974.

2. Pursuant to paragraph 4(b)(ii) of ST/AI/326, members of the public may have access to archives and records which are more than twenty years old and not subject to restrictions imposed by the Secretary-General.

3. Although, in accordance with section 4 of the Convention on the Privileges and Immunities of the United Nations,^{*} the archives and in general all documents belonging to it or held by the United Nations are inviolable, the Organization may decide to provide the same on a strictly voluntary basis. In this context, it is important to note that reports concerning incidents involving members of United Nations peacekeeping missions are normally provided to the Permanent Mission of the contributing State concerned for transmission to the appropriate authorities of its Government.

4. In light of the fact that the documents concerned are over twenty years old and given the purposes for which the request was made by the Permanent Representative of the [Member State A], we have no objection to providing access to the [United Nations Mission] archives subject to the conditions of confidentiality mentioned in that request.

5. The decision as to whether or not to provide such access, however, ultimately rests with the Department of Peacekeeping Operations, in liaison with the Secretary-General's Office if deemed necessary, taking into consideration the nature and content of the documents requested as well as any policy concerns arising therefrom.

27 June 1995

^{*} United Nations, *Treaty Series*, vol. 1, p. 15, and vol. 90, p. 327 (corrigendum to vol. 1).