



June 28, 2023

Office of Information Programs and Services (IPS)
A/GIS/IPS/RL
U.S. Department of State, State Annex 2 (SA-2)
515 22nd Street, NW
Washington, DC 20522-8100
Telephone: (202) 261-8484
Facsimile: (202) 261-8579

RE: FOIA Request Regarding the United States formally rejoining the United Nations Educational, Scientific and Educational Organization (UNESCO)

Dear FOIA Officer:

This letter is a request (“Request”) in accordance with the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, and the corresponding department/agency implementing regulations. The Request is made by the American Center for Law and Justice (“ACLJ”)¹ on behalf of its members.

To summarize, this Request seeks records pertaining to United States formally rejoining the United Nations Educational, Scientific and Educational Organization (UNESCO), and any steps taken in this process to ensure this new position does not hurt the interests of the United States’ key ally, Israel.

Background

Pursuant to U.S. Department of State (DOS) FOIA regulation 22 C.F.R. § 171.4(b), this Background addresses “the subject, timeframe, names of any individuals involved, a contract number (if applicable), and reasons why the requester believes the Department may have records on the subject of the request.” 22 C.F.R. § 171.4(b).

¹The ACLJ is a not-for-profit 501(c)(3) organization dedicated to the defense of constitutional liberties secured by law. The ACLJ regularly monitors governmental activity and works to inform the public of such affairs. The ACLJ and its global affiliated organizations are committed to ensuring governmental accountability and the ongoing viability of freedom and liberty in the United States and around the world.

The United States left UNESCO in 2011 after the organization recognized Palestine as a member state.² The exit was required by the “Foreign Relations Authorization Act, Fiscal Years 1990 and 1991” which stated in relevant part:

SEC. 414. MEMBERSHIP OF THE PALESTINE LIBERATION ORGANIZATION IN UNITED NATIONS AGENCIES.

(a) PROHIBITION.—No funds authorized to be appropriated by this Act or any other Act shall be available for the United Nations or any specialized agency thereof which accords the Palestine Liberation Organization the same standing as member states.³

All funding from the United States ceased but the US did not formally withdraw, even keeping a seat on UNESCO’s Executive Board.⁴

The US formally and completely withdrew in 2019 on the basis of UNESCO’s “anti-Israeli bias.”⁵

The 117th Congress, under Speaker Pelosi, in December of 2022, passed a statute permitting a waiver of the act referenced above, if:

“with respect to the United Nations Educational, Scientific and Cultural Organization if the President determines and reports in writing to the Speaker of the House of Representatives, the President Pro Tempore of the Senate, and the appropriate congressional committees that to do so would enable the United States to counter Chinese influence or to promote other national interests of the United States.” 136 Stat. 4459 (2022).

On June 12 of this year, the United States of America “officially notified” the Director-General of UNESCO, Audrey Azouley, of its intention to rejoin UNESCO.⁶

This Request seeks information about the official notification and the events around it.

² Vincent Noce, US considers rejoining Unesco despite more than \$616m membership debt and Israel-Palestine controversies, THE ART NEWSPAPER, <https://www.theartnewspaper.com/2023/01/11/us-considers-rejoining-unesco-despite-616m-membership-debt-and-israel-palestine-controversies>.

³ 104 Stat. 70 (1990).

⁴ Vincent Noce, US considers rejoining Unesco despite more than \$616m membership debt and Israel-Palestine controversies, THE ART NEWSPAPER, <https://www.theartnewspaper.com/2023/01/11/us-considers-rejoining-unesco-despite-616m-membership-debt-and-israel-palestine-controversies>.

⁵ Vincent Noce, US considers rejoining Unesco despite more than \$616m membership debt and Israel-Palestine controversies, THE ART NEWSPAPER, <https://www.theartnewspaper.com/2023/01/11/us-considers-rejoining-unesco-despite-616m-membership-debt-and-israel-palestine-controversies>.

⁶ Press Release, UNESCO, The United States of America announces its intention to rejoin UNESCO in July (June 16, 2023), <https://www.unesco.org/en/articles/united-states-america-announces-its-intention-rejoin-unesco-july>.

Records Requested

For purposes of this Request, the term “record” means “any information” that qualifies under 5 U.S.C. § 552(f), and includes, but is not limited to, the original or any full, complete and unedited copy of any log, chart, list, memorandum, note, correspondence, writing of any kind, policy, procedure, guideline, agenda, handout, report, transcript, set of minutes or notes, video, photo, audio recordings, or other material. The term “record” also includes, but is not limited to, all relevant information created, stored, received or delivered in any electronic or digital format, *e.g.*, electronic mail, instant messaging or Facebook Messenger, iMessage, text messages or any other means of communication, and any information generated, sent, received, reviewed, stored or located on a government *or private* account or server, consistent with the holdings of *Competitive Enter. Inst. v. Office of Sci. & Tech. Policy*, 827 F.3d 145 (D.C. Cir. 2016) (rejecting agency argument that emails on private email account were not under agency control, and holding, “If a department head can deprive the citizens of their right to know what his department is up to by the simple expedient of maintaining his departmental emails on an account in another domain, that purpose is hardly served.”).

All requests seek records which include, but are not limited to, any record located on backup tapes, archives, any other recovery, backup, storage or retrieval system, DOS electronic mail or message accounts, non-DOS electronic mail or message accounts, personal electronic mail or message accounts, DOS servers, non-DOS servers, and personal servers, as well as any electronic mail or message carbon copied to agency account recipients, any electronic mail or message carbon copied to non-agency account recipients, any electronic mail or message forwarded to agency account recipients, any electronic mail or message forwarded to non-agency account recipients, and attachments to any electronic mail or message.

For purposes of this Request, the term “briefing” includes, but is not limited to, any in-person meeting, teleconference, electronic communication, or other means of gathering or communicating by which information was conveyed to one or more person(s).

For purposes of this Request, the term “DOS official” includes, but is not limited to, any person who is (1) employed by or on behalf of the DOS, any Mission of the United States, or any Delegation of the United States, in any capacity; (2) contracted for services by or on behalf of the DOS, any Mission of the United States, or any Delegation of the United States, in any capacity; (3) appointed by the President of the United States to serve in any capacity at or within the DOS, any Mission of the United States, or any Delegation of the United States; or (4) any such person’s staff, agent or employee; all without regard to the component, bureau, or office in which that person serves.

For purposes of this Request, all sources, documents, letters, reports, briefings, articles and press releases cited in this Request are incorporated by reference as if fully set forth herein.

For purposes of this Request, any individual or entity’s name includes any alias or pseudonym.

For purposes of this Request, and unless otherwise indicated, the timeframe of records requested herein is January 1, 2022, to the date this request is processed.

For purposes of this Request, and unless otherwise indicated, the following databases or the database accessed by the program are requested to be searched: Center for Analytics (CfA) [SBU], Consular Affairs Cloud Salesforce (CACSF), Document Imaging System (DIS), DOS Email Systems (Email), eRecords Management System (ERecords), Gift Registry, Knowledge Center (KC), Overseas Building Operation Link (OBOLINK), Risk Analysis Management (RAM), and State Messaging and Archive Retrieval toolset (SMART).

Pursuant to FOIA, 5 U.S.C. § 552 *et seq.*, ACLJ hereby requests that the DOS produce the following:

1. The “Official Notification” sent to UNESCO by the State Department about the United States’ intent to rejoin.
2. All records received from UNESCO by the State Department since January 1, 2022.
3. The record of the waiver by President Biden sent to the “Speaker of the House of Representatives, the President Pro Tempore of the Senate, and the appropriate congressional committees” stating that rejoining UNESCO “would enable the US to counter Chinese influence or to promote other national interests of the United States.”
4. All records of State communications to the Senate Foreign Relations Committee and the House of Representatives Foreign Relations Committee about UNESCO or the Congressional waiver.
5. All records about UNESCO in the custody of Robert A. Wood, Alternate Representative of the United States of America for Special Political Affairs in the United Nations and Alternate Representative of the United States for Special Political Affairs in the Sessions of the General Assembly of the United Nations.
6. All records about UNESCO in the custody of Lisa Carty, Representative of the United States of America to the Economic and Social Council of the United Nations and Alternate Representative of the United States to the Sessions of the General Assembly of the United Nations.
7. All records about UNESCO in the custody of Christopher P. Lu, Representative of the United States of America to the United Nations for U.N. Management and Reform on January 4, 2022, and Alternate Representative of the United States of America to the Sessions of the General Assembly of the United Nations.
8. All records about UNESCO in the custody of Richard M. Mills, Deputy Representative of the United States of America to the United Nations.

9. All records about UNESCO in the custody of Linda Thomas-Greenfield, Representative of the United States of America to the United Nations and the Representative of the United States of America in the Security Council of the United Nations.
10. All records about UNESCO in the custody of the George Noll, Chief of the U.S. Office of Palestinian Affairs, and any other official of the U.S. Office of Palestinian Affairs of a GS-14 (or equivalent) or higher, or who is an appointee.

CONCLUSION

If this Request is denied in whole or in part, the ACLJ requests that, within the time requirements imposed by FOIA, you support all denials by reference to specific FOIA exemptions and provide any judicially required explanatory information, including but not limited to, a *Vaughn* Index.

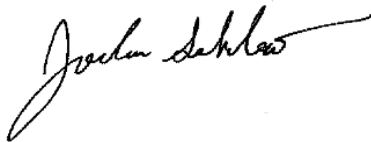
Thank you for your prompt consideration of this Request. Please furnish all applicable records and direct any responses to:

Jordan Sekulow, Executive Director
Benjamin P. Sisney, Senior Litigation Counsel
John A. Monaghan, Senior Litigation Counsel
American Center for Law and Justice
201 Maryland Ave., NE
Washington, D.C. 20002-5703
(202) 546-8890; (202) 546-9309 (fax)

foia-response@aclj-exchange.org
bsisney@aclj.org
jmonaghan@aclj.org

I affirm that the foregoing request and attached documentation are true and correct to the best of my knowledge and belief.

Respectfully submitted,



Jordan Sekulow
Executive Director



Benjamin P. Sisney
Senior Litigation Counsel



John A Monaghan
Senior Litigation Counsel