



Mr/Ms Arne Semsrott

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Our ref: TO/PAD-2020-00217
Please quote when replying.

Warsaw, 20 January 2021

Your application for access to European Border and Coast Guard Agency (Frontex) documents

Dear Mr/Ms Semsrott,

In reference to your application registered after finding a commonly acceptable fair solution on 25 November for which the time limit has been extended by 15 working days on 16 December 2020¹, asking initially for access to

All Serious Incident Reports (SIRs) filed between July 2019 and now. Frontex has answered similar requests in the past and has disclosed the SIRs to other requesters before.

The commonly acceptable fair solution consisted in diving your application into two parts; following your proposal,

Application 1

all the SIRs since July 2019 that you have sent to other people in response to their 1049/2001 requests.

was registered

Please find attached the 17 documents containing the SIRs applied for. Kindly note that some limited parts of these documents fall under exceptions under Article 4 of Regulation (EC) No 1049/2001 and therefore had to be expunged with detailed justifications in the below legend.

Kindly be reminded that the copyright of the document/s rests with Frontex and making this/these work/s, available to third parties in this or another form without prior authorisation of Frontex is prohibited. Please also note that Frontex does not assume liability stemming from the use of the document/s.

¹ In accordance with Article 7(3) of Regulation (EC) No 1049/2001 of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ L 145, 31.5.2001, p. 43).

Pursuant to Article 7(2) of Regulation (EC) No 1049/2001, within 15 working days of the receipt of this letter, you may submit a confirmatory application to Frontex to reconsider its position. Based on Article 8 of Regulation (EC) No 1049/2001, Frontex will reply to you within 15 working days from the registration of such application. You can submit your confirmatory application by post or electronically.

Yours sincerely,



Timo Knaebe
Senior Legal Officer

Attachment: Disclaimers of Non-disclosure

1	Personal Data	The non-disclosed text contains personal data, in particular, the name of an individual. Its disclosure would affect the privacy and integrity of the individual and is therefore precluded pursuant to the exception laid down in Article 4(1)(b) of Regulation (EC) No 1049/2001.
2	Number and profile of Human Resources	The non-disclosed parts contain information regarding the number and profiles of officers deployed in the operational area. Disclosing such information would be tantamount to disclosing the weaknesses and strengths of Frontex operations and pose a risk to their effectiveness. As a result, the course of ongoing and future similar operations would be hampered, ultimately defeating their purpose to counter and prevent cross-border crime and unauthorized border crossings. Consequently, the disclosure of such information would undermine the protection of the public interest as regards public security as laid down Article 4(1)(a) first indent of Regulation (EC) 1049/2001.
3	Reporting tools and methods used by law enforcement officials	The non-disclosed part contains detailed information related to reporting tools and methods used by law enforcement officials to conduct border control tasks and counter criminal activities. Its disclosure would jeopardize the implementation of ongoing and future operations, and thus facilitate irregular migration and trafficking in human beings as the effectiveness of law enforcement measures would be significantly reduced. As disclosing this information would undermine the protection of the public interest as regards public

		security, this part is not disclosed pursuant to Article 4(1)(a) first indent of Regulation (EC) No 1049/2001.
4 and 5	Sensitive operational information	<p>The non-disclosed text cannot be released as it refers to details crucial for situational awareness at the external borders of the European Union which is used by Frontex to conduct its operational activities and to develop risk analyses. The disclosure of this information would hamper the effectiveness of Frontex operations and jeopardise the efforts carried out by the European Union and Member States to curtail criminal activities at the external borders. It would thus benefit criminal networks especially those involved in people smuggling and trafficking in human beings, which would put the life of migrants in danger. Hence, the disclosure of the information pertaining to this variable would undermine the protection of the public interest as regards public security and has to be refused based on Article 4(1)(a) first indent of Regulation (EC) No 1049/2001.</p> <p>The information related to this non-disclosed text is also used for the development of risk analyses, which constitute a specific form of internal decision-making processes based on the intelligence derived from previous and presently ongoing activities and have a bearing on the conduct of current and future operations. Being an important base for determining the strategic orientation of the Agency, the possibility to conduct such analyses without interference is crucial for Frontex to effectively exercise its mandate. Consequently, releasing this information would enable third parties to gain insights into this decision making process and, with ascertainable likelihood, result in depriving Frontex of the possibility to conduct such analyses wholly independently, free from any external pressure or third-party influence. In sum, releasing this information would seriously undermine Frontex internal decision making-processes. As no overriding public interest that is objective and general in nature and not indistinguishable from individual or private interests for the release of this information is ascertainable in the present case, information pertaining to this variable cannot be released based on Article 4(3) of Regulation (EC) No 1049/2001.</p>
6	Number and type of technical equipment	The non-disclosed parts contain information regarding the technical equipment deployed in each operational area. Disclosing such information would be tantamount to disclosing the exact type, capabilities and weaknesses of the equipment, as well as their usual position, opening way for abuse. The result of this would only be to hamper the course of ongoing and future similar operations, ultimately obstructing their purpose to counter and prevent cross-border crime and unauthorized border crossings. In this light, the

		disclosure of such information would undermine the protection of the public interest as regards public security in the sense of Article 4(1)(a) first indent of Regulation (EC) No 1049/2001.
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