



Mr/Ms Luisa Izuzquiza, Mr/Ms Arne Semsrott  
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Our ref: TO/PAD-2020-00223  
Please quote when replying.

Warsaw, 21 January 2021

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

Dear Mr/Ms Izuzquiza, dear Mr/Ms Semsrott,

In reference to your application registered on 26 November for which the time limit has been extended by 15 working days on 17 December 2020<sup>1</sup>, asking for access to

*Regarding the pushbacks in the Aegean involving Frontex, as reported by the Bellingcat and other media outlet articles*

*For the incident of 28.04.2020, involving asset FSA OSPREY 1*  
- the Technical Equipment Mission Report;  
- the ICC Daily report and/or JCB Minutes; and  
- the Daily reporting package.

*For the incident of 04.06.2020, involving asset PRT CPB Nortada*  
- the Technical Equipment Mission Report;  
- the ICC Daily report and/or JCB Minutes; and  
- the Daily reporting package.

*For the incident of 05.06.2020, involving asset PRT CPB Nortada*  
- the Technical Equipment Mission Report;  
- the ICC Daily report and/or JCB Minutes; and  
- the Daily reporting package.

*For the incident of 08.06.2020, involving asset PRT CPB Nortada*  
- the Technical Equipment Mission Report;  
- the ICC Daily report and/or JCB Minutes; and  
- the Daily reporting package.

*For the incident of 08.06.2020, involving asset PRT ROU CPV MAI 1103*  
- the Technical Equipment Mission Report;  
- the ICC Daily report and/or JCB Minutes; and  
- the Daily reporting package.

*For the incident of 15.08.2020, involving asset ROU CPV MAI 1102*  
- the Technical Equipment Mission Report;  
- the ICC Daily report and/or JCB Minutes; and

<sup>1</sup> 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).

- *the Daily reporting package.*

*For the incident of 19.08.2020, involving asset PRT CPB Molivos*

- *the Technical Equipment Mission Report;*
- *the ICC Daily report and/or JCB Minutes; and*
- *the Daily reporting package.*

I regret to inform you that access to the 30 documents identified must be refused as they:

- refer to details of the operational area and thus cannot be released. Disclosing details of the operational areas would provide smuggling and other criminal networks with intelligence, enabling them to change their modus operandi, which would ultimately put the life of migrants in danger. Consequently, the course of ongoing and future operations of similar nature would be hampered by depriving the operations of any strategy and element of surprise, ultimately defeating their purpose to counter and prevent cross-border crime and unauthorized border crossings. In this light, the disclosure of documents containing 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;
- contain 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

In sum, they relate to ongoing operations. Releasing this information would benefit criminal networks, enabling them to change their modus operandi and consequently result in hampering the course of ongoing and future similar operations, which would put the life of migrants in danger. This would ultimately obstruct the purpose of such operations: to counter and prevent cross-border crime and unauthorized border crossings. Consequently, the disclosure of the documents in question would undermine the protection of the public interest as regards public security. A partial release of the document(s) could not be undertaken, as their redaction would be disproportional in relation to the parts that are eligible for disclosure, simultaneously undermining the principle of sound administration. More specifically, the administrative burden necessary to identify and redact the releasable materials would be disproportionate to the public interest in the disclosure exercise itself, while the released documents would not convey any informative value due to their significantly reduced form. Consequently, the partial disclosure of the document(s) at issue must be refused owing to the particular circumstances of the present case.

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*