



Mr/Ms Arne Semsrott

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Our ref: TO/PAD-2020-00179
Please quote when replying.

Warsaw, 8 February 2021

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

Dear Mr/Ms Semsrott,

In reference to your application registered on 22 January 2021, asking for access to

Sämtliche Gutachten, die Frontex in Bezug auf die Frage hat anfertigen lassen, ob es Waffen und Munition beschaffen darf. Es existieren dazu mindestens zwei Gutachten.

Thus

All expert opinions orderd by Frontexin relation to the procurement of arms and ammunition. There are at least two expert opinions.

Please be informed that Frontex has identified five documents, access to which must be refused as they contain information regarding currently ongoing decision-making processes. The ongoing discussions taking place within Frontex and under its auspices and involving numerous stakeholders require special protection. Namely, disclosing the redacted parts would reveal negotiation positions of the stakeholders, which would erode the mutual trust among all participants. Such information would enable third parties to draw preliminary conclusions and thus, hamper the ongoing and future negotiations. In addition, four of the identified documents contain evaluations, which constitutes technical and economic information on the competences and know-how and other commercial interests of current and future market actors, the disclosure of which would undermine the protection of commercial interests of legal persons. As no overriding public interest that is objective and general in nature and not indistinguishable from individual or private interests for the release of these documents is ascertainable in the present case, this information should not be released based on Article 4(2) first indent and (3) of Regulation (EC) No 1049/2001¹. A partial release of the documents could not be undertaken, as their redaction would be disproportionate 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 documents at issue must be refused owing to the circumstances of the present case.

¹ 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