

Mr/Ms Arne Semsrott

Email: a.semsrott. [REDACTED]@fragdenstaat.de

Our ref: TO/PAD-2021-00004
Please quote when replying.

Warsaw, 9 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 8 February 2021, asking for access to

All reports for the mission of the German ship BP62 ("Uckermark") on 10 August 2020, especially

- *the Daily Team Leader's report*
- *the Technical Equipment Mission Report by the Liaison Officer on board*
- *the IO Daily Report of the day*
- *the ICC Daily Report of the day*
- *the FCO Report for the area*
- *the FOC Daily Report*
- *the FSO Daily Report for the day*

Please be informed that the document "the FCO Report for the area" is not held. In regard to the other documents, access has to be refused as they:

- contain personal data, such as names of individuals and/or characteristic features which could lead to the identification of individuals. The disclosure would undermine the protection of privacy and the integrity of the individual, in particular in accordance with European Union legislation regarding the protection of personal data and therefore is to be precluded pursuant to Article 4(1)(b) of Regulation (EC) No 1049/2001¹;
- refer to details of the operational area and cannot be released. A release of these pieces of information 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

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).

- 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 on the means of communication used by law enforcement officials. The disclosure of this information would put law enforcement officials' work in jeopardy and harm the course of future and ongoing operations aimed at curtailing the activities of organized criminal networks involved in the smuggling and migrants and trafficking in human beings. As the disclosure of such pieces of information would undermine the protection of the public interest as regards public security, it must therefore be refused as laid down in Article 4(1)(a) first indent of Regulation (EC) No 1049/2001;
 - contain Information regarding technical equipment deployed in the operational area by Frontex and Member States. Disclosing such information would be tantamount to disclosing the exact type and capabilities of the equipment and would enable third parties, e.g. by combining this information with other sources, to draw conclusions regarding usual positions and movement patterns. This would open way for abuse, as numbers and types of equipment used in previous operations are indicative of similar numbers and types for succeeding years. Releasing such information would thus benefit criminal networks, enabling them to change their modus operandi and, consequently, result in hampering the course of ongoing and future operations of a similar nature. This would ultimately obstruct the purpose of such operations: to counter and prevent cross-border crime and unauthorized border crossings. In this light, the disclosure of information regarding the technical equipment deployed would undermine the protection of the public interest as regards public security within the meaning of Article 4(1)(a) first indent of Regulation (EC) No 1049/2001.

In addition, these documents pertain to ongoing investigations and their disclosure at the present stage would jeopardize the ability of Frontex and Member States to evaluate any irregularities and to verify facts and information with a view to make a decision. 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. Consequently, access to them has to be refused based on Article 4(2) third indent of Regulation (EC) No 1049/2001 as their disclosure would undermine the protection of the purpose of investigations. It is thus that no partial release is possible.

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