



EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR MIGRATION AND HOME AFFAIRS

The Director-General

Brussels
HOME/B.3



Email: 

Subject: Your application for access to documents – Ref GestDem No 2022/4828

Dear 

I refer to your e-mail dated 26/08/2022 in which you make a request for access to documents, registered on 26/08/2022 under the above mentioned reference number.

You request access to the **agenda, briefing notes, follow-up meetings and any reports** of the visit to Washington DC, USA, of an EU Delegation composed by eu-LISA, European Commission (DG HOME), Frontex (ETIAS Central Unit) and representatives of Greece, Poland and Romania on 6 and 7 June 2022 (at the US Customs and Border Protection - CBP headquarters, the Washington Dulles International airport, the Department of Homeland Security – OBIM headquarters and the Delegation of the EU to USA in Washington DC).

In relation to the briefing notes and follow-up meetings, I regret to inform you that the Commission does not hold any documents that would correspond to the description given in your application. In this regard, I would like to inform you that no briefing notes for the indicated meeting were distributed to the European Commission participant and the European Commission was not informed about or invited to attend a follow-up meeting.

Against this background, I have identified the following two documents as falling within the scope of your application:

- 1) Agenda for visit of eu-LISA/COM/Frontex/MS to U.S. Customs and Border Protection and Office of Biometric Identity Management, in Washington DC June 5 – 8, 2022 (hereafter ‘document 1’);
- 2) Mission report to Washington DC 6-7 June 2022, with reference number Ares(2022)4699631 – 27/06/2022 (hereinafter ‘document 2’).

Having examined the documents requested under the provisions of Regulation (EC) No 1049/2001 regarding public access to documents (Hereafter ‘Regulation 1049/2001’), I have come to the conclusion that documents 1 and 2 may be partially disclosed.

With regard to document 1, a complete disclosure of the identified document is prevented by the exception concerning the protection of privacy and the integrity of the individual outlined in Article 4(1)(b) of Regulation 1049/2001, because it contains the following personal data:

- the names/initials and contact information of Commission staff members not pertaining to the senior management;
- the names/initials and contact details of other natural persons;
- handwritten signatures/abbreviated signatures of natural persons;
- other information relating to an identified or identifiable natural person [*venues and addresses where the participants were accommodated*].

Article 9(1)(b) of the Data Protection Regulation does not allow the transmission of these personal data, except if you prove that it is necessary to have the data transmitted to you for a specific purpose in the public interest and where there is no reason to assume that the legitimate interests of the data subject might be prejudiced. In your request, you do not express any particular interest to have access to these personal data nor do you put forward arguments to establish the necessity to have the data transmitted for a specific purpose in the public interest.

Consequently, I conclude that, pursuant to Article 4(1)(b) of Regulation 1049/2001, access cannot be granted to the personal data of other natural persons that are contained in the requested document, as the need to obtain access thereto for a purpose in the public interest has not been substantiated and there is no reason to think that the legitimate interests of the individuals concerned would not be prejudiced by disclosure of the personal data concerned.

With regard to document 2, some of its parts have been blanked out as their disclosure is prevented by the exceptions to the right of access laid down in Article 4(1)(a), first indent of the Regulation 1049/2001 (protection of public security), Article 4(1)(a), third indent of the Regulation 1049/2001 (protection of international relations) and Article 4(1)(b) of Regulation 1049/2001 (protection of personal data).

The first indent of Article 4(1)(a) of Regulation 1049/2001 provides that “*[t]he institutions shall refuse access to a document where disclosure would undermine the protection of the public interest as regards public security*”.

Document 2 contains sensitive information related to the experience of enforcement authorities of the United States with biometrics and their use to protect state borders. This includes the information about which data is considered paramount for an efficient border check and examples of some operational tactics. Public disclosure of this information would undermine public security, for example by facilitating the bypassing of effective cross-border checks and obstructing the attempts of US authorities to prevent illegal activities.

The third indent of Article 4(1)(a) of Regulation 1049/2001 provides that *”[t]he institutions shall refuse access to a document where disclosure would undermine the protection of the public interest as regards international relations”*.

Given the public security concerns outlined above, the full disclosure of document 2 would tantamount to a breach of trust of the US authorities and could therefore undermine international relations with the US.

Lastly, document 2 also contains the same kind of personal data of natural persons as document 1. Consequently, I conclude that pursuant to Article 4(1)(b) of Regulation 1049/2001, access cannot be granted to these personal data, as the need to obtain access thereto for a purpose in the public interest has not been substantiated and there is no reason to think that the legitimate interests of the individuals concerned would not be prejudiced by disclosure of the personal data concerned.

Please note that document 2 was drawn up for internal use under the responsibility of Unit B.3 – Information Systems for Borders, Migration and Security in Directorate B – Schengen, Borders & Visa of the Directorate-General for Migration and Home Affairs. It solely reflects the HOME-B3 participant interpretation of the interventions made and does not set out any official position of the third parties to which the document refers, which was not consulted on its content. It does not reflect the position of the Commission and cannot be quoted as such.

Yours faithfully,

Monique PARIAT

Enclosures: Document 1: Agenda of the visits
Document 2: Mission Report to Washington DC