

Legend of justifications of non-disclosure

Personal data

The non-disclosed parts contain personal data, such as names of individuals and/or characteristic features which could lead to the identification of individuals. Their 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 have to be precluded pursuant to Article 4(1)(b) of Regulation (EC) No 1049/2001¹.

Number and profile of Human Resources

The non-disclosed part/s contain/s detailed 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 by itself but especially in combination with other sources 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.

Number and type of technical equipment

The non-disclosed part/s contain/s information regarding the 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 by itself but especially in combination with other sources 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.

Means of communication

The non-disclosed part/s contain/s 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 by themselves but especially in combination with other sources 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.

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

Operational area

The non-disclosed parts refer to details of the operational area and cannot be released. As ongoing operations tend to cover similar operational areas as the operations conducted in preceding years, disclosing details of previous operational areas would be tantamount to disclosing the current state of play. This 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 within the meaning of Article 4(1)(a) first indent of Regulation (EC) No 1049/2001.

Relationship with third countries

The non-disclosed parts contain analyses and subjective assessments of the internal situation in third countries with explicit references to existing strengths and measures applied in the current situation regarding border security. Effective cooperation with third countries is crucial for Frontex, and therefore a unilateral disclosure of these elements must be refused as establishing and protecting a sphere of mutual trust in the context of international relations is a very delicate exercise. The release of the document/s would end the mutual trust enjoyed between this/these country/countries and Frontex. Once the relationship between Frontex and any third country is impaired, there would be an ascertainable likelihood that these countries would no longer share sensitive data with Frontex. This would not only impede the improvement of pre-warning mechanisms necessary to analyse the migratory flows towards the European Union but would also hinder the development of adequate tools, at both European Union and national levels, that are necessary to conduct efficient border control and prevent cross-border crime, such as the facilitation of irregular immigration and trafficking in human beings. As this risk is reasonably foreseeable, disclosing this information by itself but especially when combined with other sources would undermine the protection of the public interest as regards public security and international relations. Consequently, access to those elements has to be refused pursuant to Article 4(1)(a) first and third indent of Regulation (EC) No 1049/2001.

Reporting tools and methods used by law enforcement officials

The non-disclosed part/s contain/s 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 by itself but especially in combination with other sources would undermine the protection of the public interest as regards public security, these parts are not disclosed pursuant to Article 4(1)(a) first indent of Regulation (EC) No 1049/2001.

Modus operandi of law enforcement

The non-disclosed part/s contain/s detailed information regarding the modus operandi of law enforcement officials performing border control and/or coast guard duties. Disclosing such information by itself but especially in combination with other sources would expose the working methods applied in ongoing and future operations, thus obstructing their effectiveness in prevention

of cross-border crime and unauthorized border crossings. In consequence, disclosure would undermine the protection of the public interest as regards public security and thus must be refused pursuant to Article 4(1)(a) first indent of Regulation (EC) No 1049/2001.

Sensitive operational Information

The non-disclosed text contains 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 lives of migrants in danger. Hence, the disclosure of this information by itself but especially in combination with other sources 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.

Additionally, this information 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 decisionmaking 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, the detailed information included in the documents cannot be released based on Article 4(3) of Regulation (EC) No 1049/2001.