



EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR INTERNATIONAL PARTNERSHIPS

Director General

Brussels, 26 May 2023
intpa.a.2(2023)5503030

Ms Monica NGUYEN
c/o Open Knowledge Foundation
By email only:

Subject: Your application for access to documents

Ref.: EASE 2023/1152

Dear Ms Nguyen,

I refer to your application of 17 February 2023 ⁽¹⁾, in which you made a request for access to documents, registered under the above-mentioned reference number. You requested access to:

- “1) A detailed list of 251 EUTF programmes*
- 2) Details of which African countries have received how much money has been transferred from the EU for which action*
- 3) Detailed mapping of the costs of providing digital technologies (in the field of economy and employment, strengthening population resilience, improving migration management and improving governance and conflict prevention)*
- 4) Indication of which firms have provided the technologies*
- 5) Indicate the functionalities of the technologies used*
- 6) Indicate which technologies will be sent to African partner countries*
- 7) EU assessment of the Emergency Trust Fund since its inception in 2015”.*

⁽¹⁾ Ref. Ares(2023)1166214

I also refer to the requests for clarification of 24 February 2023 ⁽²⁾ and 18 March 2023 ⁽³⁾ sent as part of joint case 2023/1108 and to your responses thereto of 27 February 2023 ⁽⁴⁾ and 22 March 2023 ⁽⁵⁾.

You clarified in these responses that your request concerns:

- i) *The geographical area of:*
 - *Sahel and Lake Chad Basin: Burkina Faso, Cameroon, Chad, Côte d'Ivoire, the Gambia, Ghana, Guinea, Mali, Mauritania, Niger, Nigeria, Senegal;*
 - *Horn of Africa: Djibouti, Eritrea, Ethiopia, Kenya, Somalia, South Sudan, Sudan, Tanzania, Uganda;*
 - *North Africa: Morocco, Algeria, Tunisia, Libya, Egypt.*
- ii) *Only the EUTF Emergency Trust Fund/No other EU programmes*
- iii) *The period between 2016 and 2022*
- iv) *In terms of digital technologies: all biometric technologies, mainly eyes and facial recognition, hand and fingerprinting, recognition of sexual identity and language analysis*

I also refer to our email of 9 March 2023 ⁽⁶⁾, in which we explained that an extended time limit is needed in accordance with Article 7(3) of Regulation (EC) No 1049/20013 to prepare a complete reply to your request due to internal consultations.

Please note that due to the wide scope of your request covering also areas falling under the responsibility of other Directorates-General, parts of your request have been attributed to another Directorate-General ⁽⁷⁾. This reply relates only to the documents held by the Directorate-General for International Partnerships (DG INTPA).

The following documents have been identified as falling under the scope of your request:

A. Points 1 and 2 of your request (public documents):

1. All the programmes approved under the EUTF for Africa are listed under Annex I of the 2022 Annual Report available on the website of the EUTF for Africa at the following link: https://trust-fund-for-africa.europa.eu/system/files/2023-06/MNBE23001ENN_0.pdf
2. All annual reports since 2016 are available under the *Our mission/Objective and governance* page of the website of the EUTF for Africa ⁽⁸⁾.

⁽²⁾ Ref. Ares(2023)1368337

⁽³⁾ Ref. Ares(2023)1957512

⁽⁴⁾ Ref. Ares(2023)1603275

⁽⁵⁾ Ref. Ares(2023)2077990

⁽⁶⁾ Ref. Ares(2023)1731719

⁽⁷⁾ EASE Ref No. 2023/1108 - Directorate-General for Neighbourhood and Enlargement Negotiations (DG NEAR)

⁽⁸⁾ https://trust-fund-for-africa.europa.eu/our-mission/objective-and-governance_en

3. Direct Support to partner countries is only provided via Budget Support programmes in a limited number of cases. All the programmes approved under the EUTF for Africa are listed in Annex I as mentioned in point 1 above and available on the EUTF for Africa website ⁽⁹⁾.

B. Points 3-6 of your request (documents originating from third parties):

1. Final Report, Better Migration Management Programme, 1 April 2016 to 30 September 2019, reference Ares(2021)1160100 (hereafter ‘document 1’).
2. Final Report, Better Migration Management II Programme, 1 October 2019 to 30 September 2022, reference Ares(2023)3419666 (hereafter ‘document 2’).

C. Point 7 of your request (public documents):

1. The final report and annexes of the mid-term evaluation of the EUTF for Africa are available under the *results/monitoring and evaluation* page of the website ⁽¹⁰⁾.
2. The reports from the monitoring and learning systems of the EUTF for Africa are available under the *results/monitoring and evaluation* page of the website ⁽¹¹⁾.

A final evaluation of the EUTF for Africa should take place towards the end of the implementation period of the Trust fund, before 31 December 2025.

Please note that most of the Trust Fund programmes are implemented under indirect management modalities. This implies that the implementing partners are responsible for the overall management of the programmes or projects, including the identification, assessment, and procurement of any equipment (among which potential biometric technology) necessary for the programme or project’s implementation, and to achieve their objectives⁽¹²⁾. The contracting authority is informed about the programme implementation via regular monitoring and reporting.

Having examined the documents that you requested under the provisions of Regulation (EC) No 1049/2001 ⁽¹³⁾, I have decided that:

- Full access can be granted to all documents under sections A and C (public documents available on the website of the EUTF for Africa).
- Partial access can be granted to documents 1 and 2 as full disclosure is prevented by the exceptions to the right of access laid down in Article 4(1)(a) third indent

⁽⁹⁾ https://trust-fund-for-africa.europa.eu/where-we-work/our-programmes_en

⁽¹⁰⁾ https://trust-fund-for-africa.europa.eu/system/files/2021-02/mtr_final_report_1.pdf

⁽¹¹⁾ https://trust-fund-for-africa.europa.eu/results/monitoring-and-evaluation_en

⁽¹²⁾ While some projects are aiming to digitalize civil registries in given countries of the Sahel and Lake Chad region, none of them include procurement of biometric technologies nor the collection of biometric data.

⁽¹³⁾ 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, Official Journal L 145 of 31 May 2001, p. 43.

(protection of the public interest as regards international relations) and in Article 4(1)(b) (protection of the privacy and integrity of the individual) of Regulation (EC) No 1049/2001.

Documents 1 and 2 contain phrases and sections, which are out of scope of this request and have thus been redacted.

The justifications are as follows:

1. Protection of the public interest as regards international relations

Article 4(1)(a), third indent, of Regulation (EC) No 1049/2001 provides that the *'institutions shall refuse access to a document where disclosure would undermine the protection of [...] the public interest as regards [...] international relations [...]*'.

As per settled case-law, the institutions *'must be recognised as enjoying a wide discretion for the purpose of determining whether the disclosure of documents relating to the fields covered by [the exceptions provided for in Article 4(1)(a) of Regulation 1049/2001] could undermine the public interest'* ⁽¹⁴⁾.

The full public disclosure of documents 1 and 2 would severely affect the international relations with the partner governments involved in the projects, as they provide sensitive information which could jeopardize relationships with national counterparts. Sharing these documents may be interpreted as a security breach and could hence negatively impact the relationships with these partner governments and the future implementation of projects in the countries. This, in turn, may result in limitation of access to people of concern resulting in reduced ability to address their key protection and life-saving assistance needs.

Therefore, there is a risk that their full disclosure would undermine the protection of the public interest as regards international relations. I consider this risk as reasonably foreseeable and non-hypothetical, given the sensitivity of the issue and the relevance of the above-referred information.

2. Protection of the privacy and the integrity of the individual

Full disclosure of documents 1 and 2 is prevented by the exception concerning the protection of privacy and the integrity of the individual outlined in Article 4(1)(b) of Regulation (EC) No 1049/2001. In particular, these documents contain the names, contact details and handwritten signatures of individuals who are not public figures and personal data pertaining to Commission staff who does not belong to the senior management such as names, email addresses, job titles and handwritten signatures that would allow the identification of the individuals.

Article 9(1)(b) of the Data Protection Regulation ⁽¹⁵⁾ does not allow the transmission of these personal data, except if you prove that it is necessary to have the data transmitted to

⁽¹⁴⁾ Judgment of 3 July 2014, *Council v In 't Veld*, C-350/12, paragraph 63.

⁽¹⁵⁾ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC, OJ L 295, 21.11.2018, p. 39.

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 any 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 (EC) No 1049/2001, access cannot be granted to the personal data contained in the requested documents, 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.

Disclaimers

Please note that documents 1 and 2 originating from third parties are disclosed to you based on Regulation (EC) No 1049/2001. However, this disclosure is without prejudice to the rules on intellectual property, which may limit your right to reproduce or exploit the released documents without the agreement of the originator, who may hold an intellectual property right on them. The European Commission does not assume any responsibility from their reuse.

You may reuse public documents, which have been produced by the European Commission or by public and private entities on its behalf based on the [Commission Decision on the reuse of Commission documents](#). You may reuse the documents disclosed free of charge and for non-commercial and commercial purposes provided that the source is acknowledged and that you do not distort the original meaning or message of the documents. Please note that the Commission does not assume liability stemming from the reuse.

Means of Redress

In accordance with Article 7(2) of Regulation (EC) No 1049/2001, you are entitled to make a confirmatory application requesting the Commission to review its position. Such a confirmatory application should be addressed within 15 working days upon receipt of this letter. You can submit it in one of the following ways:

by asking for a review via your portal ⁽¹⁶⁾ account (available only for initial requests submitted via the portal account),

or by mail:

European Commission
Secretariat-General
Transparency, Document Management & Access to Documents (SG.C.1)
BERL 7/076
B-1049 Bruxelles

or by email to: sg-acc-doc@ec.europa.eu

⁽¹⁶⁾ <https://www.ec.europa.eu/transparency/documents-request>

Yours sincerely,

Electronically signed



Enclosure: Documents 1 and 2