

Our ref: TO/PAD-2023-00365
Please quote when replying.

Mr/
Em

Warsaw, 12 October 2023

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

Dear M

In reference to your application registered on 29 September 2023, asking for access to

WhatsApp-Nachrichten oder andere Textnachrichten, die Frontex-Mitarbeiter, an Frontex-Missionen beteiligte Einheiten aus Mitgliedstaaten oder Frontex-Dienstleister wie Airbus und DEA in den Jahren 2021, 2022 und 2023

Thus

WhatsApp messages or other text messages sent by Frontex employees, units from member states participating in Frontex missions or Frontex service providers such as Airbus and DEA to Libyan coast guards or their representatives in 2021, 2022 and 2023.

Please be informed that Frontex identified 2040 documents, access to which has to be refused, as they contain:

- 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 jeopardise 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, this part is not disclosed pursuant to Article 4(1)(a) first indent of Regulation (EC) No 1049/2001¹
- details of the operational area which cannot be released as it 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

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).

purpose to counter and prevent cross-border crime and unauthorised border crossings. In this light, the disclosure of documents containing such information 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

- 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 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 unauthorised 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
- 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 unauthorised 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.

A partial release of the documents could not be undertaken, as their redaction would be disproportional 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 elements would be disproportionate to the interest in the disclosure exercise itself, while the released document(s) would not convey any informative value due to its/their significantly reduced form. Consequently, a partial disclosure of the documents at issue must be refused owing to the particular circumstances of the present case.

Pursuant to Article 7(2) of Regulation (EC) No 1049/2001, within 15 working days of the receipt of this reply, you may submit a confirmatory application.

A confirmatory application, indicating the reference of your initial application, may be submitted electronically to: <https://pad.frontex.europa.eu/padrequests/create>,
by mail to: European Border and Coast Guard Agency, Transparency Office,
pl. Europejski 6, 00-844 Warsaw/Poland
or by email to: pad@frontex.europa.eu or frontex@frontex.europa.eu.

Based on Article 8 of Regulation (EC) No 1049/2001, Frontex will reply within 15 working days from the registration of such application.

Yours sincerely,

[Decision signed electronically]
Case Handler of the Transparency Office