

Justifications Legend for PAD 2023-366

Numbers/names in the documents pertain to:

1. **Personal Data:** The non-disclosed parts contain personal data, in particular, the name and/or image of an individual. 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 has to be precluded pursuant to Article 4(1)(b) of Regulation (EC) No 1049/2001¹.
2. **Modus Operandi (Cooperation with Member States):** The non-disclosed parts contain sensitive information obtained in cooperation with a Member State of the European Union regarding the effectiveness of border security measures. The disclosure of such information would reveal information on the current situation regarding border security measures applied which, once public, could be explored by criminal networks involved in migrant smuggling, trafficking in human beings and thus undermine the protection of the public interest as regards public security as laid down in Article 4(1)(a) first indent of Regulation (EC) 1049/2001.
3. **Ongoing international negotiations (Protection of international relationships):** Access to this part has to be refused as disclosure would undermine the protection of the public interest as regards international relations as laid down in Article 4(1)(a) third indent of Regulation (EC) No 1049/2001. Effective cooperation with third countries is crucial for Frontex and therefore, the unilateral disclosure of these documents must be refused as such would jeopardise the mutual trust of all parties, an essential prerequisite for establishing international relations and ensuring the effectiveness of negotiations in this regard. Moreover, the formulation of negotiating positions involves a number of tactical considerations of all negotiators involved - including Frontex. Consequently, the disclosure of this information would negatively effect on the ability of Frontex and other parties to establish a meaningful cooperation or engagement. In this regard, it is not possible to provide further information as to further justifications impeding the disclosure of the documents without revealing their contents and thereby depriving this exception of its very purpose.
4. **Internal decision-making:** Access must be refused pursuant to Article 4(3) of Regulation (EC) No 1049/2001 as disclosure would seriously undermine internal decision-making processes regarding current and future activities of Frontex. The ongoing discussions taking place within Frontex and under its auspices and involving numerous stakeholders require special protection. Namely, disclosing these elements would enable third parties to draw preliminary conclusions and to unduly influence these processes and thus to hamper such decision-making processes. No overriding public interest that is objective and general in nature and not indistinguishable from individual or private interests for the release of these elements is ascertainable in the present case.
5. **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

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).

delicate exercise. The release of these elements would erode the mutual trust enjoyed between this country 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 parts has to be refused pursuant to Article 4(1)(a) first and third indent of Regulation (EC) No 1049/2001.