

Our ref: STRAT/SGT/PAD-2024-00214
Please quote when replying.

Warsaw, 4 June 2024

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

Dear M [REDACTED]

In reference to your application registered on 22 April 2024 for which the time limit has been extended by 15 working days on 16 May 2024¹, asking for access to:

Dokumenten, die folgende Informationen enthalten:

Alle auf der Konferenz "Search and Rescue (SAR) awareness for the non-SAR community" im November 2023 gehaltenen Präsentationen,

- *außerdem alle dort verteilten Handouts,*
- *außerdem die Teilnahmeliste des Forums bzw. der dort gehaltenen Workshops (wie etwa jener zu Maritime Situational Awareness).*

That is:

Documents containing the following information:

All presentations given at the "Search and Rescue (SAR) awareness for the non-SAR community" conference in November 2023,

- *also all the handouts distributed there,*
- *also the participation list of the forum or the workshops held there (such as the one on Maritime Situational Awareness).*

Please be informed that Frontex identified ten documents, six of which are herewith attached. Limited parts of these documents fall under exceptions under Article 4 of Regulation (EC) No 1049/2001¹ and therefore had to be expunged as they contain:

- 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

¹ In accordance with Article 7(3) of Regulation (EC) No 1049/2001 of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ L 145, 31.5.2001, p. 43).

security and thus must be refused pursuant to Article 4(1)(a) first indent of Regulation (EC) No 1049/2001².

- Details of the operational area: 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.
- 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.
- 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.
- 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

² 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).

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 decision-making 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.

- Personal data, such as names of individuals and/or characteristic features which could lead to the identification of individuals. 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 1049/2001.
- Information whose disclosure would undermine the protection of the commercial interests of legal persons - third-party and other market actors - including intellectual property. The document contains detailed technical and economic information of legal persons, more precisely information on their competences and working methods, their know-how and/or internal organisation. If released, these pieces of information would impede especially third-party's future ability to participate in the market. As no overriding public interest that is objective and general in nature and not indistinguishable from individual or private interests for the release of these documents is ascertainable in the present case, these parts cannot be released based on Article 4(2) first indent of Regulation (EC) No 1049/2001.

Access to four remaining documents constituting presentations must be refused as in addition to containing **information regarding the modus operandi of law enforcement officials, details of the operational area and the number and profiles of officers deployed thereto, information regarding the technical equipment, sensitive operational details and personal data**, as explained above, they also feature:

- Sensitive information on the cooperation or engagement with third countries. In addition, these documents partly include references to the modus operandi, analyses and assessments of this cooperation or engagement as well as on the current situation regarding border security measures applied. The unilateral release of this information would undermine the mutual trust between Frontex, Member States and third countries in the context of international relations. The release of such information would ultimately impede the collaboration, respectively engagement, between Member States and third countries in return and readmission processes. As a consequence, the disclosure of this information would undermine the protection of the public interest with regard to public security and international relations pursuant to Article 4(1)(a) first and third indent of Regulation (EC) No 1049/2001.

A partial release of these four 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 documents would not convey any informative value due to 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.

With reference to your request for access to “*the participation list of the forum or the workshops held there*”, please be informed that Frontex does not hold such documents.

Subject to any intellectual property rights of third parties, the documents may be reused provided that the source is acknowledged and that the original meaning or message of the documents is not distorted. Frontex is not liable for any consequence resulting from the reuse of these documents.

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, Public Access to Documents Team,
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]
Public Access to Documents Coordinator