

Mr/Ms Nikolaj Nielsen
Email: nn@euobserver.com

Our ref: TO/PAD-2022-00195
Please quote when replying.

Warsaw, 21 June 2022

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

Dear Mr/Ms Nielsen,

In reference to your application registered on 31 May 2022, in which you stated

The Fundamental Rights Officer last October visited Hungary to do a country report on Frontex returns. May I have a copy of this report, please?

Please be informed that access to document has to be denied as:

- it contains 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 existing vulnerabilities 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;¹
- releasing this information would benefit criminal networks, enabling them to change their modus operandi and consequently result in hampering the course of ongoing and future similar operations in this and other regions, which would put the life of migrants in danger. This would ultimately obstruct the purpose of such operations: to counter and prevent cross-border crime and unauthorized border crossings. Consequently, the disclosure of the document would undermine the protection of the public interest as regards public security. Consequently, access must be refused pursuant Article 4(1)(a) first indent of Regulation (EC) No 1049/2001;
- it contains analyses and subjective assessments of the internal situation in third countries with explicit references to existing strengths and vulnerabilities. Effective cooperation with third countries is crucial for Frontex and Member States, and therefore a unilateral disclosure of this document 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 would end the mutual trust enjoyed between these countries, Frontex and Member States. Once the relationship between Frontex, Member States and these countries is impaired, there would be an ascertainable likelihood that these countries would no longer share sensitive data with Frontex or Member States. This would in particular hinder the development of adequate tools, at both European Union and national levels, that are necessary to conduct efficient

¹ 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).

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 would undermine the protection of the public interest as regards public security and international relations. Consequently, access to those documents has to be refused pursuant to Article 4(1)(a) first and third indent of Regulation (EC) No 1049/2001;

A partial release of the document(s) could not be undertaken, as its 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 document(s) 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