



EUROPEAN COMMISSION  
DIRECTORATE-GENERAL FOR INTERNATIONAL PARTNERSHIPS

Africa  
Western Africa

*By registered letter with acknowledgment of receipt*

Brussels, INTPA.A.3/xxxx /xxx

Ms BESCHERER Kelly

**Subject: Your application for access to documents –EASE 2023/0839**

Dear Ms BESCHERER,

We refer to your initial request for European Commission documents that was registered on the 6 February 2023 under the above-mentioned reference number EASE 2023/0839. We also refer to your e-mail clarifying your request sent on the 9 March 2023 pursuant Regulation (EC) No 1049/2001 regarding public access to documents.

## **1. SCOPE OF YOUR REQUEST**

Your initial request referred access to any documents related to project T05-EUTF-SAH-CI-01 which contain:

- *In-depth Guidelines/minutes of meetings on how to carry out the activities*
- *Any agreement signed between the EU and the project managing partner Civipol*
- *Monitoring reports on performed activities*
- *Minutes of the meetings of the Operational Committee, as the body responsible for reviewing and approving the actions financed by the EUTF, and evaluating reports of the impact of this project on migrants' and refugees' privacy*
- *Financial reports detailing the expenditure items of the budget so far invested in the project.*

In response to our clarification request sent on the 3 March 2023 we read the following on your response dated 28 March 2023: "I would be interested in the implementation of the project "Appui à la mise en œuvre de la Stratégie nationale de l'état civil et de l'identification de Côte d'Ivoire" -- if I have understood well, thus would be the project T05-EUTF-SAH-CI-02.

I consider your request to cover documents held up to the date of your initial application, i.e. 6 February 2023.

Based on your application we have identified the documents listed in annex to this letter.

## **1.1. ASSESSMENT AND CONCLUSIONS UNDER REGULATION (EC) No 1049/2001**

Having examined the documents requested under the provisions of Regulation (EC) No 1049/2001 regarding public access to documents, we have come to the conclusion the majority of them may be fully or partially disclosed, while access has to be fully denied for certain documents.

## **1.2. DOCUMENTS FULLY DISCLOSED**

Full access is provided to the following documents:

- Action Document T05-EUTF-SAH-CI-02: «Appui à la mise en œuvre de la Stratégie nationale de l'état civil et de l'identification de Côte d'Ivoire» (Document 2.1)
- Grant Agreement T05-EUTF-SAH-CI-02-01 Annex II: General Conditions for Grant Agreements (Document 3.3)

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 requested free of charge for non-commercial and commercial purposes provided that the source is acknowledged, 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.

## **2.2. DOCUMENTS PARTIALLY DISCLOSED**

Partial disclosure refers to those documents parts which have been redacted, as their disclosure is prevented by exceptions to the right of access laid down in Article 4 of Regulation (EC) No 1049/2001.

The detailed reasons for partial disclosure of documents are set out below.

### **2.2.1. Protection of privacy and the integrity of the individual**

- Conclusions of the Operational Committee meeting - Sahel & Lake Chad window of 19 November 2018 (Document 1.1) contain personal data, in particular names, functions and initials of Commission staff.
- Special Conditions of Grant Agreement (Document 3.1), contain personal data, in particular names, functions and signatures of the implementing partner and European Commission representatives.
- Grant Agreement T05-EUTF-SAH-CI-02-01 signed with CIVIPOL (Document 3.5):
  - Annex IV: Procurement rules for beneficiary(ies);
  - Annex V: Standard request for payment and financial identification form;
  - Annex VI: Model narrative and financial report;
  - Annex VII: Terms of reference for an expenditure verification of a European Union financed grant contract for external actions and model report of factual findings; Annex VIII: Model financial guarantee;
  - Annex IX: Standard template for transfer of asset ownership

Pursuant to Article 4(1)(b) of Regulation (EC) No 1049/2001, access to a document has to be refused if its 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.

The applicable legislation in this field is 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/EC1 ('Regulation 2018/1725'). Article 9(1)(b) of Regulation 2018/1725 does not allow the transmission of these personal data, except if you prove that it is necessary to have the data transmitted to 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, 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.

### **2.2.2. Protection of commercial interests, including intellectual property**

Article 4(2), first indent of Regulation 1049/2001 provides that '[t]he institutions shall refuse access to a document where disclosure would undermine the protection of commercial interests of a natural or legal person, including intellectual property, [...] unless there is an overriding public interest in disclosure'.

The redacted parts of Annex I Description of the Action of the civil registry project (Document 4.2) describe in detail the methodology and know-how of the implementing partner: strategy in managing the dialogue with beneficiary authorities and other partners, method for each activity, budget broken down by volume of man days and type of expertise needed for each activity, use of budget for incidental expenditures, and internal procedures with the headquarters to provide quality assurance and supervision; some specifications on the references given on previous projects already implemented by CIVIPOL; personal and financial resources and type of expertise allocated to each activity.

As a consequence, there is a real and non-hypothetical risk that public access to the above-mentioned information would undermine the commercial interests, including intellectual property, of the implementing partner. We conclude, therefore, that the refusal of access to the withheld parts of documents listed above is made on the basis of the exception laid down in the first indent of Article

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<sup>1</sup> Official Journal L 205 of 21.11.2018, p. 39.

4(2) (protection of commercial interests, including intellectual property) of Regulation (EC) No 1049/2001.

### **2.2.3 Protection of the decision-making process**

- Conclusions of the Operational Committee meeting - Sahel & Lake Chad window of 19 November 2018 (Document 1.1).

Article 4(3), second subparagraph Regulation (EC) No 1049/2001 provides that access to a document containing opinions for internal use as part of deliberations and preliminary consultations within the institution concerned shall be refused even after the decision has been taken if disclosure of the document would seriously undermine the institution's decision-making process, unless there is an overriding public interest in disclosure.

The operational conclusions of the EUTF Operational Committee contain opinions for internal use as part of the deliberations expressed by Member States and Commission during the decision making process as part of deliberations. It is considered that their full disclosure would seriously undermine the institution's decision-making process even after the decision has been taken.

I therefore conclude that parts of the abovementioned document cannot be disclosed as they fall under the exception for the decision-making process pursuant to Article 4(3), second subparagraph, of Regulation (EC) No 1049/2001.

## **2.3.DOCUMENTS NOT DISCLOSED**

We regret to inform you that your application cannot be granted for documents 4.4, 4.6, 5.1, 5.2, 5.3, 5.4, 5.5, 5.6, 5.7 and 5.8 as disclosure is prevented by exceptions to the right of access laid down in Article 4 of Regulation (EC) No 1049/2001. The detailed reasons for refusal are set out below.

We have considered whether partial access could be granted to the documents requested under Article 4(6) of this Regulation, however, no meaningful partial access could be granted without undermining the interests protected under Article 4 of the Regulation.

### **2.3.1. Protection of privacy and the integrity of the individual**

- Inception report of the civil registry project (22/12/20 – 31/03/21) (Document 4.1)
- Progress report of the civil registry project (01/04/21 – 30/06/21) (Document 4.2)
- Interim report year 1: Ares(2022)1370878 (Document 4.3)
- Interim report 1st January 31 December 2022 : Ares(2022)1468377 (Document 4.4)
- Interim report n°5: Ares(2022)2629989 (Document 4.5)
- Interim report N°6: Ares(2022)4932301 (Document 4.6)

- Interim report n°7: Ares(2022)6985994 (Document 4.7)
- Interim report N°8: Ares(2023)203412 (Document 4.8)
- Legal entity Form and Bank account Form of each contract (contained in Document 3.5,);

The abovementioned documents contain personal data, in particular names, contact details of experts proposed by the implementing partner, as well as names of other natural persons.

For the justification regarding the application of this exception please refer to section 2.2.1 of this letter.

### **2.3.2. Protection of commercial interests, including intellectual property**

The following documents contain commercial information:

Annex I - Description of the Action of the grant agreement contract signed with CIVIPOL (Document 3.2 Estimated budget of the contract (Document 3.4,);

- Addendum n°1: Ares(2022)4872213 (Document 3.6)
- Inception report of the civil registry project (22/12/20 – 31/03/21) (Document 4.1)
- Progress report of the civil registry project (01/04/21 – 30/06/21) (Document 4.2)
- Interim report year 1: Ares(2022)1370878 (Document 4.3)
- Interim report 1st January 31 December 2022 : Ares(2022)1468377 (Document 4.4)
- Interim report n°5: Ares(2022)2629989 (Document 4.5)
- Interim report N°6: Ares(2022)4932301 (Document 4.6)
- Interim report n°7: Ares(2022)6985994 (Document 4.7)
- Interim report N°8: Ares(2023)203412 (Document 4.8)

Description of the action, Estimated budget, and addendum n.1 (Documents 3.2, 3.4, 3.5) as well as inception report and progress reports drafted by CIVIPOL related to the civil registry project Ivory Coast (Documents 4.1, 4.2, 4.3, 4.4, 4.5, 4.6, 4.7 and 4.8) contain information on the internal and logistic organisation of tasks and on the performed activities; they contain references to the methodology used to prepare and to carry out the activities as well as reporting methods; approach and methodology used on the analysis of data collected or on the elaboration of studies or guidelines; details on the work relations and practices of exchange of information and documents between the project staff and national authorities; explanations on CIVIPOL'S internal follow-up and evaluation systems on the activities and on the project staff; references to internal meetings to prepare the strategy or to facilitate the follow up.

After having consulted the implementing partner with regard to the documents emanating from them we have concluded that, given the competitive value of this information, disclosure of the withheld parts of the aforementioned documents would undermine the commercial interests of the implementing partner that submitted it, as putting this information in the public domain would affect its future competitive position.

In consequence, there is a real and non-hypothetical risk that public access to the abovementioned information would undermine the implementing partner's commercial interests, including intellectual property pursuant to Article 4(2) first indent of Regulation 1049/2001.

## **2.4. NO OVERRIDING PUBLIC INTEREST IN DISCLOSURE**

The exception laid down in Article 4(2) first indent and 4(3) of Regulation 1049/2001 must be waived if there is an overriding public interest in disclosure. Such an interest must, firstly, be public and, secondly, outweigh the harm caused by disclosure.

In your application, you do not put forward any reasoning pointing to an overriding public interest in disclosing the documents requested. Nor have we been able to identify any public interest capable of overriding the interests protected by Article 4(2), first indent, of Regulation 1049/2001.

We conclude, therefore, that the protection of commercial interests prevails.

### **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 this position.

Such a confirmatory application should be addressed to the Secretariat-General of the Commission 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<sup>2</sup> 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

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<sup>2</sup> <https://www.ec.europa.eu/transparency/documents-request>

B-1049 Bruxelles

**or by email to:** [sg-acc-doc@ec.europa.eu](mailto:sg-acc-doc@ec.europa.eu)

Yours faithfully,

Koen Doens

Director-General

