

Ms Luisa Izuzquiza
Mr Arne Semsrott

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Our ref: TO/ CMS-2019-00009-077
Please quote when replying.

Warsaw, 7 November 2019

Your application for access to Frontex documents

Dear Ms Izuzquiza, dear Mr Semsrott,

In response to your application registered on 25 September 2019 and for which the time limit was extended by 15 working days on 14 October 2019ⁱ, asking for access to

any and all documents that contain the following information:

*- For the year 2017, any and all contracts, agreements and/or contractual statements signed with EU Member States and/or Schengen Associated Countries for the cession or contribution of the following types of assets to Frontex's Technical Equipment Pool:
Fixed wing aircraft (FWA) - less than 4 hours autonomy Fixed wing aircraft (FWA) - between 4 and 8 hours autonomy Fixed wing aircraft (FWA) - more than 8 hours autonomy*

In particular, we are interested in the following information:

- The name of the company fabricating the aircrafts and the exact model;*
- The date of fabrication of the aircrafts;*
- The period of time these aircrafts were ceded or contributed to Frontex's Technical Equipment Pool,*

please be informed that the identification of documents constituting "contracts, agreements and/or contractual statements signed with EU Member States and/or Schengen Associated Countries", destined for "the cession or contribution of the following types of assets to Frontex's Technical Equipment Pool", resulted in a considerable amount of documents which mention the pieces of information sought by you only in the passing. Thus, the vast majority of the documents does not pertain to the pieces of information sought by you and contain inter alia personal data in the sense of Article 4(1)(b) of Regulation (EC) No 1049/2001 and refer to technical equipment deployed in an operational area to be ascertained through these documents. Disclosing information in regard to the latter would be tantamount to disclosing the exact type and capabilities of the equipment and permit conclusions regarding its usual position. 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 benefit terrorist organizations and criminal networks, enabling them to change their modus operandi and consequently result in hampering the course of ongoing and future similar operations. 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 would undermine the protection of the public interest as regards public security in the sense of Article 4(1)(a) first indent of Regulation (EC) No 1049/2001.

For all of these reasons, a partial release of the documents could not be undertaken, as the redacting 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 materials would be disproportionate to the public interest in the disclosure exercise itself, while the released documents would not convey any informative value due to their significantly reduced form. Consequently, the partial disclosure of the documents at issue must be refused owing to the particular circumstances of the present case.

Yours sincerely,

signed

Hervé Caniard
Head of Transparency Office

Pursuant to Article 7(2) of Regulation (EC) 1049/2001, within 15 working days of the receipt of this letter, you may submit a confirmatory application to Frontex to reconsider its position. Based on Article 8 of Regulation (EC) 1049/2001, Frontex will reply to you within 15 working days from the registration of such application. You can submit your confirmatory application by post or electronically.

ⁱ Based on Article 7(3) of Regulation (EC) No. 1049/2001 of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJL 145, 31.5.2001, p. 43).