Subject: Your application for access to documents – EASE 2024/0157

Dear Mr Neujeffski,

I refer to your request for access to European Commission documents registered on 11 January 2024 under the above-mentioned reference number.

Your application concerns many documents, parts of which originate from third parties and arrived in a moment when my services have also received a large number of other applications. This led to a delay on the answer for which I apologise.

You request access to:

A. The applications of Italy, Spain and Greece for the thematic facility (2023-25) under the Integrated Border Management Fund as laid out in C(2022) 8993 final - "technical equipment for European Border and Coast Guard national components"

B. The assessments of these applications by the European Commission

I have identified the following documents as falling within the scope of your request:

- Italy application to the call BMVI/2023-2024/SA/1.2.2, dated 20 December 2022, reference number Ares(2023)983501 (hereinafter ‘Document 1’);
- Greece application to the call BMVI/2023-2024/SA/1.2.2, dated 20 December 2022, reference number Ares(2023) 985729 (hereinafter ‘Document 2’);
- Spain application to the call BMVI/2023-2024/SA/1.2.2, dated 20 January 2023, reference number Ares(2023) 985419 (hereinafter ‘Document 3’);
- Frontex eligibility check Italy, dated 12/05/2023 (hereinafter ‘Document 4’);
- Frontex eligibility check Greece, dated 12/05/2023 (hereinafter ‘Document 5’);
- Frontex eligibility check Spain, dated 12/05/2023 (hereinafter ‘Document 6’);
- Assessment checklist Italy, dated 07/06/2023, (hereinafter ‘Document 7’);
- Assessment checklist Greece, dated 07/06/2023, (hereinafter ‘Document 8’);
- Assessment checklist Spain dated 07/06/2023, (hereinafter ‘Document 9’);
- Assessment report for Specific Action under BMVI: “Equipment for EBCG (1) national components, purchased under BMVI and put at the disposal of Frontex (2) to increase its operational capacity, in accordance with Article 64(14) of the Regulation (EU) 2019/1896” (Reference no. BMVI/2023-2024/SA/1.2.2), dated 08 June 2023, reference number Ares(2023)4111515 (hereinafter ‘Document 10’);
  - Annex III to the assessment report-assessment results, dated 08 June 2023, reference number Ares(2023)4111515 (hereinafter ‘Document 10.3’);
  - Annex IV to the assessment report-Equipment requested by Frontex, dated 08 June 2023, reference number Ares(2023)4111515 (hereinafter ‘Document 10.4’);
  - Annex V to the assessment report- applications proposed for award, dated 08 June 2023, reference number Ares(2023)4111515 (hereinafter ‘Document 10.5’);
  - Annex VI to the assessment report- Reserve list, dated 08 June 2023, reference number Ares(2023)4111515 (hereinafter ‘Document 10.6’);
- Italy Notification letter - Proposal for the Specific Action: “Equipment for EBCG national components, purchased under BMVI and put at the disposal of Frontex to increase its operational capacity, in accordance with Article 64(14) of Regulation (EU) 2019/1896” - Reference No. BMVI/2023-2024/SA/1.2.2/06, dated 19 June 2023, reference number Ares(2023)4243438 (hereinafter ‘Document 11’);
- Greece Notification letter - Proposal for the Specific Action: “Equipment for EBCG (1) national components, purchased under BMVI and put at the disposal of Frontex (2) to increase its operational capacity, in accordance with Article 64(14) of Regulation (EU) 2019/1896”, - Reference No. BMVI/2023-2024/SA/1.2.2/12, dated 19 June 2023, reference number Ares(2023)4243468 (hereinafter ‘Document 12’);
- Spain Notification letter - Proposal for the Specific Action: “Equipment for EBCG (1) national components, purchased under BMVI and put at the disposal of Frontex (2) to increase its operational capacity, in accordance with Article 64(14) of Regulation (EU) 2019/1896” - Reference No. BMVI/2023-2024/SA/1.2.2/12, dated 19 June 2023, reference number Ares(2023)4243458 (hereinafter ‘Document 13’);
- Note for the attention of the members of the Committee for the Home Affairs Funds on the Outcome of the call for expression of interest for the Specific Action “Equipment for EBCG (1) national components, purchased under BMVI and put at the disposal of Frontex (2) to increase its operational capacity, in accordance with Article 64(14) of the Regulation (EU) 2019/1896” - Reference no. BMVI/2023-2024/SA/1.2.2, dated 14 November 2023, reference number Ares(2023) 7727732 (hereinafter ‘Document 14’);
- Note for the attention of the thematic facility steering group on the result of the assessment of applications for the BMVI Specific Action “Equipment for EBCG (1) national components, purchased under BMVI and put at the disposal of Frontex (2) to increase its operational capacity, in accordance with Article 64(14) of the Regulation (EU) 2019/1896” - Reference No. BMVI/2023-2024/SA/1.2.2 dated 14 June 2023, reference number Ares(2023) 4132161 (hereinafter ‘Document 15)
  o Annex II - “Overview of EU contributions (including technical assistance) per Member State’s application proposed for selection, to be added for this Specific Action to the Member States’ BMVI programmes”, dated 14 June 2023, reference number Ares(2023) 4132161 (hereinafter ‘Document 15.2)

Having examined the documents requested under the provisions of 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 (‘Regulation (EC) No 1049/2001’)\(^{(1)}\), I have come to the conclusion that

- documents 10.1, 10.4 and 15.1 can be fully disclosed,
- access to documents 1–9 cannot be granted, and
- documents 10, 10.2, 10.3, 10.5, 10.6, 11, 12, 13, 14, 15 and 15.2 may be partially disclosed.

Please find my detailed assessment below.

I. Full disclosure

Please find attached documents 10.1, 10.4 and 15.1 in their original version.

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

II. Rejection of disclosure

The first indent of Article 4(1)(a) of Regulation 1049/2001 provides that "[t]he institutions shall refuse access to a document where disclosure would undermine the protection of the public interest as regards public security".

Documents 1–9 contain information on vulnerabilities at the external border of the European Union. For this reason, public disclosure of these documents would allow for the identification of the specific challenges and gaps at those external borders and could thus seriously threaten public security. Moreover, certain documents precise areas that are vulnerable and/or have a high incidence of criminality. Disclosure of these documents

\(^{(1)}\) OJ L 145, 31.5.2001, p. 43.
would lead to undermining public security, as it would give detailed information on the capacities for carrying out checks and surveillance at the external borders, including measures to facilitate legitimate border crossings and, where appropriate, measures related to the prevention and detection of cross-border crime at the external borders, in particular migrant smuggling, trafficking in human beings and terrorism.

For these reasons, access to documents 1-9 cannot be granted, since public disclosure of this information would undermine public security in the meaning of the first indent of Article 4(1)(a) of Regulation (EC) No 1049/2001.

I have considered whether partial access could be granted to the documents requested and came to the conclusion that access to an expunged version of the documents is not possible, as the abovementioned exceptions apply to the entire document and the documents would be meaningless after expunging the sensitive information.

III. Partial disclosure

- Protection of personal data

With regards to documents 10 and 11–15, their complete disclosure is prevented by the exception concerning the protection of privacy and the integrity of the individual outlined in Article 4(1)(b) of Regulation (EC) No 1049/2001, because they contain the following personal data:

- the names/initiatives and contact information of Commission staff members not pertaining to the senior management;
- the names/initiatives and contact details of other natural persons;
- handwritten signatures/abbreviated signatures of natural persons.

In accordance with Article 4(1)(b) of Regulation (EC) No 1049/2001 “[t]he institutions shall refuse access to a document where disclosure would undermine the protection of […] privacy and the integrity of the individual, in particular in accordance with Community legislation regarding the protection of personal data”.

Article 9(1)(b) of the Data Protection Regulation (2) 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 contained in the requested documents, 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

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individuals concerned would not be prejudiced by disclosure of the personal data concerned.

- **Protection of public security**

Documents 10, 14 and 15 cannot be fully disclosed, since they also contain information on vulnerabilities at the external border of the European Union. For the reasons set out above, full disclosure of these documents could seriously undermine public security in the meaning of the first indent of Article 4(1)(a) of Regulation (EC) No 1049/2001.

- **Out of scope**

Finally, parts of documents 10, 10.2, 10.3, 10.5, 10.6, 14–15 and 15.2 refer to the description of the action or the budget of the applications by other Member States than Greece, Italy and Spain and have thus been redacted due to the information not falling under the scope of your request.

As a result, please find enclosed documents 10, 10.2, 10.3, 10.5, 10.6, 11, 12, 13, 14, 15 and 15.2 in a redacted format, from which the protected or out of scope information has been removed.

**IV. 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 (3) 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
B-1049 Bruxelles

or by email to: sg-acc-doc@ec.europa.eu

**V. Acknowledgement of receipt**

Finally, I note that your request has been submitted outside the EASE portal. Therefore, I would appreciate, if you could acknowledge receipt of the present letter by sending an email to HOME-ACCESS-DOCUMENTS@ec.europa.eu.

(3) https://www.ec.europa.eu/transparency/documents-request
Yours sincerely,

Beate GMINDER

Enclosure: 14 documents (including annexes)