Subject: Your application for access to documents – EASE 2024/0851

Dear Mrs Bescherer,

We refer to your initial request for European Commission documents that was registered on the 13/02/2024 under the above-mentioned reference number EASE 2024/0851.

SCOPE OF YOUR REQUEST

In your initial request, you requested access to documents related to project T05-EUTF-SAHTREG-03-01 - Support to the strengthening of police information systems in the broader West Africa region (WAPIS), 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 partners
- Monitoring reports on performed activities
- Financial reports detailing the expenditure items of the budget so far invested in the project

We consider your request to cover documents held up to the date of your initial application, i.e. 13/02/2024.

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

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 that documents:

- 1.3. ANNEX I to WAPIS 3T Contract: Description of the Action;
- 1.10. ANNEX VI to WAPIS 3T Contract: Communication and Visibility Plan;
- 21.2. 4th Steering Committee WAPIS Nov 19 Recommendations;
- 21.3. Final Report ECOWAS Expert Committee meeting 22-24 October 2019
may be partially disclosed, while access has to be fully denied for the other documents listed in Annex.

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.

Some parts of the documents mentioned above have been blanked out as their disclosure is prevented by exceptions to the right of access laid down in Articles 4(1)(a), 4(1)(b) and 4(2) of this Regulation.

Since the above listed documents involve and originate from third parties, we have consulted these third parties. The authors of the mentioned documents have objected to the full disclosure of all documents listed in point 1 above for the reasons set out in paragraphs 2.1 to 2.3 below.

2.1. Protection of the public interest as regards public security and international relations

Pursuant to Article 4(1)(a), first and third indent, of Regulation (EC) No 1049/2001, access to a document has to be refused if its disclosure would undermine the public interest as regards public security and as regards international relations.

This exception concerns the following documents: 1.3; 21.2; 21.3.

Disclosing the redacted information in the above-mentioned documents would significantly jeopardize the implementing partner’s ability to effectively fulfil its mission of upholding public security, as it would expose confidential information that could be exploited by malicious actors. This in turn could compromise the safety and security of individuals, particularly in WAPIS participating countries. The documents also detail confidential information concerning third parties, including WAPIS participating countries and ECOWAS, which have been shared with INTERPOL in the expectation of confidentiality. Disclosing this information would breach that confidentiality and undermine the protection of the public interest and international relations.

Consequently, we conclude that, pursuant to Article 4(1)(a), first and third indent, of Regulation (EC) No 1049/2001, access cannot be granted to the redacted information.

2.2. Protection of privacy and the integrity of the individual

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 following documents contain personal data, in particular names, functions and initials of Commission staff, experts, officials of other bodies and entities: 1.3; 1.10; 21.2; 21.3.

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

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.

In addition, there are reasons to assume that the legitimate interests of the data subjects concerned would be prejudiced by disclosure of the personal data reflected in the documents, as there is a real and non-hypothetical risk that such public disclosure would harm their privacy and subject them to unsolicited external contacts. As to the handwritten signatures and initials of natural persons, which are biometric data, there is a risk that their disclosure would prejudice the legitimate interests of the persons concerned.

Consequently, we 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.

2.3. 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’.

This exception applies to the following document: 1.10.

The redacted parts of the Communication and Visibility Plan concern detailed costs planned by the implementing partner as well as information on its internal procedures.

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. After having examined whether there is an overriding public interest in disclosure, we have not been able to identify such an interest. We conclude, therefore, that the refusal of access to the withheld parts of documents listed above has to be made on the basis of the exception laid down in the first indent of Article 4(2) (protection of commercial interests, including intellectual property) of Regulation (EC) No 1049/2001.

3. DOCUMENTS NOT DISCLOSED

We regret to inform you that your application cannot be granted for documents 7.2, 8.4, 9.4, 12.5, 21.4, 21.5, 23.4, 28.4, 35.4, 35.5, 36.5, 37.5, 39.5, 40.5, 47, and 50 as disclosure is prevented by exceptions to the right of access laid down in Article 4(1)(a), first and third indent and Article 4(1)(b)

Since the above listed documents involve and originate from third parties, we have consulted these third parties. The authors of the mentioned documents have objected to the full disclosure of all documents listed above for the reasons detailed in paragraph 3.2 below.

Following an examination of documents under the provisions of Regulation (EC) No 1049/2001 regarding public access to documents and taking into account the opinion of the third party/parties, we regret to inform you that your application cannot be granted, as disclosure is prevented by exception/exceptions to the right of access laid down in Article 4(1)(a), first and third indent and Article 4(1)(b) of this Regulation.

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 in Article 4(1)(a), first and third indent and Article 4(1)(b) of this Regulation.

3.1. Protection of privacy and the integrity of the individual

The following documents contain personal data, in particular names, contact details of experts or counterparts:

- Document 8.4; 12.5; 21.4; 28.4; 35.4; 35.3; 36.5; 37.5; 39.5; 40.5; 47; 50.

For further detail on the application of this exception, please refer to section 2.2 of this letter.

3.2 Protection of the public interest as regards public security and international relations

Article 4(1)(a), first and third indent 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 (…) [and] international relations’.

With regards to the documents listed below, we have come to the conclusion that they cannot be disclosed under the provisions of Article 4(1)(a) first and third indents of Regulation (EC) No 1049/2001 regarding public access to documents:

- Progress reports, internal reports; final report: 7.2; 9.4; 12.5; 21.4; 21.5; 23.4; 28.4; 35.4; 35.5; 36.5; 37.5; 39.5; 40.5
- Email exchanges: 8.4
- Steering committees’ reports: 47; 50

The documents in question contain sensitive and strategic information which are integral to INTERPOL's mission of upholding public security. Specifically, the documents contain details of the WAPIS Programme activities that are sensitive and strategic in nature, including confidential information about the WAPIS as a police database. Disclosing this kind of information would significantly jeopardize INTERPOL's ability to effectively fulfil its mission of upholding public security, as it would expose confidential information that could be exploited by malicious actors. This in turn could compromise the safety and security of individuals, particularly in WAPIS participating countries. Moreover, the
protection of the public interest and international relations is closely tied to the preservation of confidentiality. By objecting to the disclosure of these documents, INTERPOL is upholding its commitment to confidentiality and protecting the interests of third parties. The documents also detail confidential information concerning third parties, including WAPIS participating countries and ECOWAS, which have been shared with INTERPOL in the expectation of confidentiality. Disclosing this information would breach that confidentiality and undermine the protection of the public interest and international relations. It would significantly compromise INTERPOL's ability to maintain public security on an international level by eroding trust with its partners, undermining effective communication channels, and hindering international cooperation.

This is a real and non-hypothetical risk, that disclosing these documents would jeopardise the public interest as regards public security and international relations.

We therefore conclude that the refusal of access, at this stage, to documents listed above concerning information related to public security and international relations shared in the framework of the Action is justified on the basis of Article 4(1)(a), first and third indents of Regulation 1049/2001.

4. NO OVERRIDING PUBLIC INTEREST IN DISCLOSURE

The exception laid down in Article 4(2) of Regulation 1049/2001, which applies with regard to document 1.10, 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) of Regulation 1049/2001.

We conclude, therefore, that the protection of the public interest 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 portal2 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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2 https://www.ec.europa.eu/transparency/documents-request
B-1049 Bruxelles

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

Yours faithfully,

[e-signed]

Koen DOENS