

Ms Lena Karamanidou

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Our ref:TO/CMS-2018-00011-0345

Warsaw, 9 January 2019

Your application for access to Frontex documents

Dear Ms Karamanidou,

In response to your application of 9 November 2018, for which proof of eligibility was established on 19 November 2018, asking for access to

Documents which contain the following information:

- 1. Please specify all operations under which Frontex personel, seconded national experts, Frontex equipment or equipment under loan/lease from MS are currently deployed in the aforementioned region.*
- 2. Please specify and provide the legal and operational provisions on which these deployments are based, including but not limited to operational plans, agreements with the Hellenic Republic or subsidiary institutions thereof.*
- 3. The number of Frontex personnel deployed at Greek-Turkish land border per month between 01 October 2017 and 31 October 2018. Please specify per month sending member state, mandate, role, and which police directorate they are attached to (e.g. Alexandroupoli, Orestiada).*
- 4. Any information relating to the technical equipment (vans, thermal cameras, etc) used by Frontex and Greek authorities in joint operations at the Greek-Turkish land border between 01 October 2017 and 31 October 2018; 3a. Information on whether the technical equipment is owned by FRONTEX or leased/on loan from member states; which member states it is leased/on loan from, for how long, and the personnel that is accompanying the technical equipment.*
- 5. The training manual/guidance/standards of procedure given to Frontex personnel deployed at the Greek Turkish land border, specifically as to the required steps taken should a third country national expresses their intention to seek asylum.*
- 6. The number of joint return operations through the Greek-Turkish land border per month between 01 October 2017 and 31 October 2018 under the Bilateral Greek-Turkish Readmission Agreement (Greek Law 3030/2002) and the agreement between the European Union and the Republic of Turkey on the readmission of persons residing without authorisation, in which FRONTEX has been assisting the Greek authorities through its personal or seconded staff employed, the mandate under which the return or readmission*

operations take place, the exact nature of involvement of Frontex personnel, and any information relating to the nationality of the return persons per month in the above mentioned period.

7. Reports on push-backs across the Evros river that were conveyed to the Agency Frontex personnel deployed the Greek-Turkish land border, by persons who have experienced or witnessed push-backs, or received by independent agencies or individuals, and which independent agencies or individuals they were received from, each month between 01 October 2017 and 31 October 2018 or if they cannot be made public, their exact number and a summary of the alleged violations.

By push-packs, I refer to returns effected outside the framework of the Bilateral Greek-Turkish Readmission Agreement (Greek Law 3030/2002); the agreement between the European Union and the Republic of Turkey on the readmission of persons residing without authorisation, Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals, and have been reported, inter alia, by the Greek Council for Refugees and IRIN.

8. Reports, or if they cannot be made public, their exact number, on violence witnessed by Frontex personnel deployed at the Greek- Turkish land border, by persons who have experienced or witnessed violence, or received by independent agencies, and which independent agencies they were received from, each month between 01 October 2017 and 31 October 2018.

9. Any documents or report pertaining to actions and steps taken by Frontex as a consequence of incidents of push-backs and/or violence between 01 October 2017 and 31 October 2018.

10. All official correspondence and/or internal notes or position papers in regard to alleged push-backs and incidents of violence at the Greek Turkish border between 01 October 2017 and 31 October 2018.

11. Documents pertaining to the exact mechanism for victims of abuses to file a complaint to Frontex officers deployed at the Greek-Turkish land border,

please be informed that in regard to **points 2 and 10**, Frontex can grant you partial access to documents. Please note however that some limited parts of these documents fall under exceptions under Article 4 of Regulation (EC) No 1049/2001¹, and therefore had to be expunged with detailed justifications next to them.

Kindly note that documents containing information regarding **point 3** cannot be released as they contain information regarding the number and profiles of human resources deployed in the operational area. Disclosing such recent information would be tantamount to disclosing the weaknesses and strengths of operations and exposing law enforcement officials and their assets to security risks. As a result, the course of ongoing and future similar operations would be hampered, ultimately defeating their purpose to counter and prevent cross-border crime as well as to prevent unauthorized border crossings. In this light, the disclosure of such these documents would undermine the protection of the public interest as regard to public security within the meaning of

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. 45).

Article 4(1)(a) first indent of Regulation (EC) 1049/2001².

Also note that documents containing information regarding **point 4** cannot be released as they refer to technical equipment recently deployed in each operational area. Disclosing such information would be tantamount to disclosing the exact type and capabilities of the equipment as well as their usual position, which would open way for abuse, as numbers and types of equipment used in ongoing and previous operations are indicative of similar numbers and types for succeeding years. The result of releasing such information would benefit the trafficking, smuggling and other criminal networks that would change their modus operandi accordingly and result in hampering the course of ongoing and future similar operations, ultimately obstructing their purpose to counter and prevent cross-border crime and unauthorized border crossings. In this light, the disclosure of these documents 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.

Please be informed that in regard to **points 3 and 4**, a partial release is not possible, 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.

As regards **points 6, 7, 8 and 9** please note that Frontex does not hold such documents.

Furthermore, as indicated in the email of 8 January 2018 received from the Media and Public Relations Office, your application regarding **points 1, 5 and 11** constitute a request for information to be processed by the Frontex Media and Public Relations Office.

Kindly be reminded that the copyright of the documents rests with Frontex and that the existing rules on copyright may limit your right to reproduce or exploit the released documents.

Yours sincerely,

signed

Hervé Caniard
Head of Transparency Office

² 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. 45).

Attachments: (18)

- JO Flexible Operational Activities 2016 Land on Border Checks: Operational Plan (Main Part) (16 pages)
- JO Flexible Operational Activities 2016 Land on Border Checks: Specific Annex of Operational Plan (152 pages)
- JO Flexible Operational Activities 2017 Land on Border Checks: Operational Plan (Main Part) (20 pages)
- JO Flexible Operational Activities 2017 Land on Border Checks: Annexes of the Operational Plan (184 pages)
- JO Flexible Operational Activities 2017 Land on Border Surveillance: Annexes of Operational Plan (142 pages)
- LBS JO Flexible Operational Activities 2015: Operational Plan (18 pages)
- JO Flexible Operational Activities 2016 land on border surveillance: Specific Annex of the Operational Plan (92 pages)
- JO Flexible Operational Activities 2015: Specific Annex of the Operational Plan (92 pages)
- JO Flexible Operational Activities 2016 land on border surveillance: Operational Plan (20 pages)
- JO Flexible Operational Activities 2017 Land on Border Surveillance: Operational Plan (Main Part) (24 pages)
- JO Focal Points 2015 Land: Operational Plan (Main Part) (16 pages)
- JO Focal Points 2016 Land: Specific Annexes of the Operational Plan (176 pages)
- JO Focal Points 2017 Land: Operational Plan (Main Part) (20 pages)
- JO Focal Points 2015 Land: Annexes of the Operational Plan (152 pages)
- JO Focal Points 2016 Land: Operational Plan (Main Part) (18 pages)
- JO Focal Points 2017 Land: Annexes of OPLAN (184 pges)
- Correspondence (email message) on Turkish open source information regarding alleged “push back” at the Greek-Turkey Land border.
- Attachment of the Correspondence (email message) on Turkish open source information regarding alleged “push back” at the Greek-Turkey Land border.

Pursuant to Article 7(2) of Regulation (EC) No 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) No 1049/2001, Frontex will reply to you within 15 working days from registration of such application. You can submit your confirmatory application by post or electronically.

Frontex