

Mr Claudio Deiana

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Our ref: TO/ CMS-2019-00002-0516
Please quote when replying.

Warsaw, 6 March 2019

Your application for access to Frontex documents

Dear Mr Deiana,

In reference to your application registered on 15 February 2019, asking for access to

Data request over the period 2009-2018 - data on the number of migrants (and deaths) with the transport type that has been used. I would like to have this data possibly either with the lat/lon or at least the route of migration (Western, Central or Eastern Mediterranean route),

Please note that Frontex does not hold data pertaining to the number of deaths in the year 2009. Kindly find attached one document containing information on the number of migrants and the number of deaths for the period 2010-2018. Furthermore, please find attached one document on the detections of irregular border crossings for the period 2009-2018. A document containing additional information on the number of irregular border crossings disaggregated by route is also publicly available at: <https://frontex.europa.eu/along-eu-borders/migratory-map/>.

Please note however that the information pertaining to the variable "transport type that has been used" is crucial for situational awareness at the external borders of the European Union which is used by Frontex to conduct its operational activities and to develop risk analyses. The disclosure of this information would hamper the effectiveness of Frontex operations and jeopardise the efforts carried out by the European Union and Member States to curtail criminal activities at the external borders. It would thus benefit criminal networks especially those involved in people smuggling and trafficking in human beings, which would put the life of migrants in danger. Hence, the disclosure of the information pertaining to this variable would undermine the protection of the public interest as regards public security and has to be refused based on Article 4(1)(a) first indent of Regulation (EC) No 1049/2001^[1]. The information related to this variable is also used for the development of risk analyses, which constitute a specific form of internal decision-making processes, which are based on the intelligence derived from previous and presently ongoing activities and have a bearing on the conduct of current and future operations. Releasing this information would seriously undermine Frontex internal decision making-processes. As no overriding public interest that is objective and general in nature and not indistinguishable from individual or private interests for the release of this information is ascertainable in the present case, information pertaining to this variable cannot be released based on Article 4(3) of Regulation (EC) No 1049/2001.

^[1] 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 (OJ L 145, 31.5.2001, p. 43).

Furthermore, information pertaining to the variable “lat/lon” cannot be released as this refers to details of the operational area. As ongoing operations tend to cover similar operational geographical areas as the operations conducted in preceding years, disclosing such details pertaining to previous operational areas would be tantamount to disclosing the current operational areas. This would provide smuggling and other criminal networks with intelligence, enabling them to change their modus operandi which would put the life of migrants in danger. Consequently, the course of ongoing and future similar operations would be hampered by depriving those operations of any strategy and element of surprise, ultimately defeating their purpose to counter and prevent cross-border crime and unauthorized border crossings. In this light, the disclosure of such information 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.

Kindly be reminded that the copyright of the documents rests with Frontex and making these works, communicated solely to you in this form and forum, available to third parties in this or another form without prior authorisation of Frontex is prohibited. Please also note that Frontex does not assume liability stemming from the use of the documents.

Yours sincerely,

signed

Hervé Caniard
Head of Transparency Office

Attachments: (2 excel tables, 745 entries)

- FRAN JO IBC1A_20190228
- Detections of IBC 2019_01_04

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 the registration of such application. You can submit your confirmatory application by post or electronically.