

Mr Claudio Deiana

Email: [ask+request-6823-0445fd4d@asktheeu.org](mailto:ask+request-6823-0445fd4d@asktheeu.org)

Our ref: TO/CMS-2019-00004-0691  
Please quote when replying.

Warsaw, 7 June 2019

## Your application for access to Frontex documents

Dear Mr Deiana,

In reference to your application registered on 20 May 2019, asking for access to

*Daily numbers of crossings by type of transport and main routes. The data would have these columns "Incident daily date", "Transport mean (type)", "Total number of irregular migrants", "Route". Instead of the latter, and if it is easier for you, please substitute "Route" column with "lat/long" if possible [for the period 2011-2019],*

please be informed that on 2 April 2019 you have already received documents containing information on the variables *incident date*, *transport means* and *total number of irregular migrants* as part of our response to your application CMS-2019-00003-0324.

Frontex does not hold documents in regard to the variables *incident daily date*, *transport means*, *total number of irregular migrants* and *route*.

Documents containing the variable "lat/lon" cannot be released as the information related to the variable 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, trafficking and other criminal networks with intelligence and enable them to change their modus operandi which would hinder the implementation of the mandate and put the lives 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.

Furthermore, information pertaining to the variable "lat/lon", cannot be released as it refers to details 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.

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<sup>1</sup>.

<sup>1</sup> 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. 43).

The information related to this variable is also used for the further development of risk analyses, which constitute a specific form of internal decision-making processes based on the intelligence derived from previous and presently ongoing activities and have a bearing on the conduct of current and future operations. Being an important base for determining the strategic orientation of the Agency, the possibility to conduct such analyses without interference is crucial for Frontex to effectively exercise its mandate. Consequently, releasing this information would enable third parties to gain insights into this decision making process and, with ascertainable likelihood, result in depriving Frontex of the possibility to conduct such analyses wholly independently, free from any external pressure or third-party influence. In sum, 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.

Yours sincerely,

**signed**

Hervé Caniard  
*Head of Transparency Office*

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.