

Ms Luisa Izuzquiza and Mr Arne Semsrott

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Our ref: CGO/LAU/18911c/2017
Please quote when replying

Warsaw, 10 November 2017

Confirmatory Application - access to Frontex documents

Dear Ms Izuzquiza,
Dear Mr Semsrott,

In response to your confirmatory application received on 29 September 2017, confirming your initial request for access regarding for the period starting 1 June 2017 to 30 August 2017, both inclusive, for all vessels deployed by Frontex in the Central Mediterranean under Joint Operation Triton:

- Name of each vessel;
- Flag and
- Vessel type;

I regret to inform you that access to the requested document must be, again, refused. This refusal is justified by the fact that disclosing information on details related to technical equipment deployed in the current and ongoing operations would undermine public security.

First, it must be stressed that 1 June 2017 to 30 August 2017 refers to the current and ongoing joint operation in 2017. For your reference to the information being in public domain for the year 2016, this reflects the phase of the operation, of which the period of implementation has ended 31 December 2016 (JO Triton 2016 OPLAN). Therefore, the information concerning the current and ongoing joint operation is not currently available.

Based on the information contained in the requested documents, it might be possible, combining it with information publically available on certain maritime websites/tools, to become aware of the current position of the patrolling vessels.

In possession of this information, criminal networks involved in migrant smuggling and trafficking of human beings would be aware of the patrolling areas and patrolling schedules of the law enforcement vessels. This will allow these criminal networks to adapt their *modus operandi* accordingly in order to circumvent border surveillance and consequently cross the external border and access irregularly the territory of an EU Member State.

With regard to your reference to the European Union military operation in the Southern Central Mediterranean (hereinafter 'EUNAVFOR MED operation SOPHIA'), its mandate and any online publications of EUNAVFOR MED operation SOPHIA's mission fleet, it is an independent EU CSDP military mission which has not only its own legal basis, operational plan but also public information and social media standard operating procedures of which Frontex, as an EU Agency, based on the European Border and Coast Guard Regulation¹, has no competence and may not comment upon. Ultimately, EUNAVFOR MED operation SOPHIA functions under separate command and control, and their policies are not relevant for the changing the justification that disclosing information on details related to technical equipment deployed in the current and ongoing Frontex operations would undermine public security. Therefore, your argument that the EUNAVFOR MED operation SOPHIA's information on the name of each

¹ Regulation (EU) 2016/1624 of 14 September 2016 on the European Border and Coast Guard (OJ L 251, 16.09.2016, p. 1).

deployed vessel, flag, and vessel type has already been made available to the public, even if it were true (which is not certain), cannot be held as comparable information.

Indeed, making available documents containing information that will, not theoretically, but effectively allow criminal networks to circumvent border surveillance, as explained above, undermines the protection of the public interest as regards public security.

In light of all above, access is refused pursuant to Article 4(1)(a) of the Regulation 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents.

In accordance with Article 8(1) of the Regulation 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents you are entitled to institute Court proceedings and/or make a complaint to the European Ombudsman, under the relevant provisions of the TFEU.

Yours sincerely,



Sakari Vuorensola
Director Corporate Governance