

To the attention of:

Luisa Izuzquiza
Open Knowledge Foundation Deutschland e.V.
Singerstr. 109
10179 Berlin
Deutschland

Vienna, 17 September 2018
Ref: 2018-outgoing-001422

Subject: Your application for access to documents pursuant to Regulation No. 1049/2001 – Ref: 2018-incoming-000721

Dear Ms Izuzquiza,

We refer to your request registered on **3 August 2018**, in which you make a request for access to documents, under the above-mentioned reference number.

In your application, you request access to the following:

"For all formal meetings held by the Frontex Consultative Forum on Fundamental Rights in 2016, 2017 and 2018 to date:

- Agendas of the meetings;*
- Dates of the meetings and name and title of all attendees;*
- Minutes of the meetings; and*
- Documents used during the course of the meetings or produced for the purpose of these meetings, including - but not limited to - preparatory notes, briefings, reports, or memos."*

Having carefully analysed your application, FRA established that your request concerns the following documents:

1. CF Recommendation on FX activities at the Hungarian-Serbian border.pdf

Having carefully examined your application, the Agency would like to inform you about the following conclusions:

I. Partial Disclosure

Under the provisions of Regulation (EC) No 1049/2001 regarding public access to documents, **document 1** can be partially disclosed. Please note that following a thorough examination of this document, some parts need to be blanked out due to the exceptions set out in Article 4(1)(b) (protection of the privacy and the integrity of the individual) of Regulation 1049/2001.

PROTECTION OF PERSONAL DATA

Article 4(1)(b) of Regulation 1049/2001 provides: *"The institutions shall refuse access to a document where disclosure would undermine the protection of privacy and the integrity of the individual, in particular in accordance with Community legislation regarding the protection of personal data."*

Pursuant to the above-mentioned article, partial access to the **document 1** requested can be granted. The expunged parts cannot be expunged, as they would undermine the protection of privacy and the integrity of the individual, in particular in accordance with the Community legislation regarding protection of personal data. The applicable legislation in this field is Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data.

When access is requested to documents containing personal data, Regulation 45/2001 becomes fully applicable. According to Article 8(b) of this Regulation, personal data shall only be transferred to recipients if they establish the necessity of having the data transferred to them and if there is no reason to assume that the legitimate rights of the persons concerned might be prejudiced.

We consider that, with the information available, the necessity of disclosing such personal data to you has not been established and that it cannot be assumed that such disclosure would not prejudice the legitimate rights of the persons concerned. Therefore, we are disclosing the documents requested expunged from the personal data.

If you wish to receive these personal data, we invite you to provide us with arguments showing the necessity for having such personal data transferred to you and the absence of adverse effects to the legitimate rights of the persons whose personal data should be disclosed.

Additional information

The Agency also has access to additional documents falling within the scope of the request. All such documents are stored on an online application managed and hosted by a third party (FRONTEX) and hence those documents are not in the possession of the Agency in the meaning of the regulation.

During this communication with the third party, it was mentioned to the Agency that a very similar request was received by them and a response is provided under:

https://www.asktheeu.org/en/request/documents_on_frontex_consultativ#incoming-18575

Redress mechanism

In case you would disagree with the assessment, you are entitled, in accordance with Article 7(2) of Regulation 1049/2001, to make a confirmatory application requesting the FRA to review this position.

Such a confirmatory application should be addressed within 15 working days upon receipt of this email to FRA: documents@fra.europa.eu

Yours faithfully,



Constantinos Manolopoulos
Head of Corporate Services