

Mr Claudio Deiana

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Our ref:CGO/LPU/CMS-2018-00010-0218

Warsaw, 29 October 2018

## Your application for access to Frontex documents

Dear Mr Deiana,

In response to your application registered on 8 October 2018, asking for access to

*a similar dataset who has already been requested by others with some additional information:*

*(1) I would need to extend the dataset over the period 2009-2018 including all the different operations in place (for instance, pre and post Mare Nostrum, Joint Operation Poseidon, Poseidon Rapid Intervention, Operation Hermes).*

*(2) Additionally to the variables listed below, I would like to add the name of the organization involved (for example MSF, MOAS), the name of the rescue vessel and the ones who detected the migrants.*

*The current list of variables contains info on:*

*Operation/Year*

*Detection date*

*Search and rescue involved*

*Incidents*

*Total number of irregular migrants*

*Death cases*

*Irregular migrants in SAR cases*

*Type of detected by*

*Latitude detection*

*Longitude detection*

*Latitude interception*

*Longitude interception*

*Detection by Frontex financed/deployed asset Type of intercepted by Interception by Frontex financed/deployed asset Operational area Transport type Reference to op.area Frontex financed/deployed asset during an incident,*

I am pleased to inform you that Frontex can grant you partial access to the document containing the variables, which you may find herewith attached. Please note that Frontex does not hold any documents regarding the period between 2009 until 2011.

Kindly note that the variables:

- Latitude detection
- Longitude detection
- Latitude interception
- Longitude interception

constitute exact geocoordinates of the incidents occurred in relevant operational areas, fall under an exception to public access to documents as provided for in the Regulation (EC) No 1049/2001<sup>1</sup>, and can therefore not be disclosed. There is a real risk that the disclosure of the requested variables, geocoordinates and information incorporated therein would benefit the smuggling networks who would change their modus operandi accordingly, thus putting the life of migrants in danger. In this light, the disclosure of such variables would undermine the protection of the public interest as regards public security in the light of Article 4(1)(a) first indent of Regulation (EC) No 1049/2001 and must therefore be refused.

Please also note that the variables

- Type of detected by, type of intercepted by, Interception by Frontex financed/deployed asset
- Operational area
- Transport type
- Reference to op.area
- Frontex financed/deployed asset during an incident

fall under an exception to public access to documents as provided for in the Regulation (EC) No 1049/2001, and can therefore not be disclosed. Disclosing such information would be tantamount to revealing the exact type, capabilities and weaknesses of the equipment, as well as their usual position, opening way for abuse. The result of this would only be to hamper 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 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.

As regards the additional requested variables

- The name of the organization involved (e.g. MSF, MOAS)
- The name of the rescue vessel
- The ones who detected the migrants

Please note that they cannot be disclosed as they pertain to information crucial for situational awareness at the external borders of the EU which is used for risk analysis and, in turn, the Agency's operational decision-making.

Disclosing this information publicly will disturb the effectiveness of Frontex operations as the risk analysis based on this information and used by Frontex to run its operations would become common knowledge. If this information would become public, the efforts carried out by the European Union and Member States to curtail criminal activities would be undermined.

Furthermore, there is a real risk that disclosing all the variables and the information therein would benefit the smuggling networks who would change their modus operandi accordingly, thus putting the life of migrants in danger.

<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 disclosure of those variables is therefore refused, as it would undermine the protection of the public interest as regards public security in the sense of Article 4(1)(a) first indent of the Regulation (EC) No 1049/2001.

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,



Hervé Caniard

*Head of Transparency Office*

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BEHALF OF

**Attachment: (1)**

- An excel file containing requested information extracted from JORA (236134 entries)

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.

