

Ms Luisa Izuzquiza

Email: ask+request-5101-ec9f7b60@asktheeu.org

Our ref: CGO/LPU/2527/2018

Please quote when replying.

Warsaw, 13 February 2018

Request for access to Frontex documents

Dear Ms Izuzquiza,

In response to your application of 31 January 2018, asking for access to

- 1. all data on the handling of access to documents requests by Frontex for the years 2012-2017, both inclusive. If the data for the year 2017 is currently being processed and is therefore not yet ready for publication, then the data for the years 2012-2016 should do.*
- 2. I am looking specifically for a broken down version of the statistics already published in Frontex's annual reports on public access to documents, i.e.: the background numbers to the summarized information these reports contain.*
- 3. More detailed information on the application of exceptions in case of partial access or refusal would be particularly welcome*

Please be informed that in regard to your **question no. 2**, no specific document exists containing information on “*broken down version of the statistics*” or on “*background numbers*”.

In regard to your **questions nos 1 and 3**, I regret to inform you that access to the requested documents must be refused pursuant to Article 4(2) second indent of Regulation (EC) No 1049/2001 of 30 May 2001 regarding public access to European Parliament, Council and Commission documents as their refusal would undermine the protection of ongoing court proceedings. The disclosure of these documents would make the Agency liable, in the context of these ongoing court proceedings, to compromise the equality of arms, and Frontex's ability to defend itself as these documents reveal the position of Frontex on contentious issues raised during these proceedings.

As no overriding public interest that is objective and general in nature and not indistinguishable from individual or private interests for the release of these documents is ascertainable, these documents cannot be released.

Regarding your **question no. 3**, please be informed that the application of exceptions is guided by the jurisprudence of the Court of Justice of the European Union.

In addition, I would like to recall that further to your request of 30 November 2017 (CGO/LAU/27452/201), on 5 December 2017, Frontex has already released documents to you containing “all guidelines, handbooks, policies, rules, or instructions specifically related to the handling to access to documents requests under Regulation 1049/2001”.

Yours sincerely,

signed

Hervé Caniard
Head of Transparency Office

Pursuant to Article 7(2) of Regulation 1049/2001, you may present a confirmatory application. This confirmatory application, in which you may ask for reconsideration of your original request is to be made within 15 working days of receiving our reply. If you make such an application, within 15 working days, you will either be granted access to the document or our intention to refuse access, as explained above, will be confirmed. The confirmatory application can be sent by post or electronically.