



EUROPEAN COMMISSION  
DIRECTORATE-GENERAL FOR NEIGHBOURHOOD AND ENLARGEMENT NEGOTIATIONS

The Director-General

Brussels

Ms May Bulman  
The Netherlands

By email only:  
[ask+request-13985-  
9e6f1912@asktheeu.org](mailto:ask+request-13985-9e6f1912@asktheeu.org)

**Subject: Your application for access to documents**

Ref.: EASE 2024/0020

Dear Ms Bulman,

I refer to your application for access to documents <sup>(1)</sup> registered under reference number EASE 2024/0020, whereby you requested documents containing the following information:

- 1. “Minutes of meetings between the EU Commission (Trust Fund Manager) and the Tunisian government in regards to the Multi-Country Migration Programme for the Southern Neighbourhood*
- 2. Internal or external communication including internal and external emails (including but not limited to protocols, minutes or any other written notes) related to supporting the main Tunisian border agencies and strengthening their training capacity in border management through the Multi-Country Migration Programme for the Southern Neighbourhood*
- 3. Any agreements, tenders and awarded contracts for the training of Tunisian border agencies made through the Multi-Country Migration Programme for the Southern Neighbourhood, including the names of each one and outlining the training capacity and agencies*
- 4. The tenders and awarded notices of IT equipment used by the Tunisian border agencies to accurately and instantly communicate the security situation at borders through the Multi-Country Migration Programme for the Southern Neighbourhood, and any exchange of communication*

---

<sup>(1)</sup> Ares(2024)29050

*including emails and type of information exchanged between which bodies/border agencies (...)*”

I also refer to the clarification request we sent you on 23 January 2024 <sup>(2)</sup>, in reply to which you narrowed down the temporal scope of your request to the year 2023 <sup>(3)</sup>.

The documents that we have identified as falling within the scope of your request are listed in Annex I.

Having examined these 15 documents under the provisions of Regulation (EC) No 1049/2001 <sup>(4)</sup>, I have come to the following conclusions:

- Full access can be granted to documents 9-13, 15.
- Partial access can be granted to documents 1, 2, 7, 8, 14. Some parts of the documents have been blanked out as their disclosure is prevented by the exceptions to the right of access laid down in Article 4(1)(a), third indent (protection of the international relations), Article 4(1)(b) (protection of the privacy and integrity of the individual) and Article 4(2), first indent (protection of the commercial interests) of Regulation (EC) 1049/2001.
- Access must be refused to documents 3-6. Disclosure is prevented by the exceptions to the right of access laid down in Article 4(1)(a), third indent (protection of the international relations), Article 4(1)(b) (protection of the privacy and integrity of the individual) and Article 4(2), first indent (protection of the commercial interests) of Regulation (EC) 1049/2001.

Please note that parts of documents 1 and 2 were redacted because out of the scope of your request.

Hereunder are the justifications for the redactions of parts of documents 1, 2, 7, 8, 14 and for denial of access to documents 3-6:

### **1. Protection of the privacy and the integrity of the individual**

Disclosure of documents 3, 4 and full disclosure of documents 1, 2, 7, 8, 14 is prevented by the exception concerning the protection of privacy and the integrity of the individual outlined in Article 4(1)(b) of Regulation (EC) No 1049/2001.

In particular, these documents contain the following personal data:

- the names/initials of Commission staff members not pertaining to the senior management;
- the names/initials and contact details of natural persons, including CIVIPOL and CIVIPOL’s partners staff;

---

<sup>(2)</sup> Ares(2024)513473

<sup>(3)</sup> Ares(2024)736746

<sup>(4)</sup> Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents, Official Journal L 145 of 31 May 2001, p. 43.

- other information relating to an identified or identifiable natural person (*functions, telephone numbers*).

Article 9(1)(b) of the Data Protection Regulation <sup>(5)</sup> does not allow the transmission of these personal data, except if you prove that it is necessary to have the data transmitted to you for a specific purpose in the public interest and where there is no reason to assume that the legitimate interests of the data subject might be prejudiced.

In your application, you do not express any particular interest to have access to these personal data, nor do you put forward any arguments to establish the necessity to have the data transmitted for a specific purpose in the public interest.

I conclude that, pursuant to Article 4(1)(b) of Regulation (EC) No 1049/2001, access cannot be granted to the personal data contained in the requested documents, as the need to obtain access thereto for a purpose in the public interest has not been substantiated and there is no reason to think that the legitimate interests of the individuals concerned would not be prejudiced by disclosure of the personal data concerned.

## **2. Protection of the public interest as regards international relations**

Full disclosure of documents 1 and 2 and disclosure of documents 3-6 is prevented by the exception concerning the protection of public interest as regards international relations outlined in Article 4(1)(a), third indent, of Regulation (EC) No 1049/2001.

As per settled case-law, the institutions ‘must be recognised as enjoying a wide discretion for the purpose of determining whether the disclosure of documents relating to the fields covered by [*the exceptions provided for in Article 4(1)(a) of Regulation 1049/2001*] could undermine the public interest’.

The relevant documents include concrete information on activities implemented by CIVIPOL’s personnel and partners, as well as references to interactions with governmental authorities. The documents furthermore provide information about the involvement, decision-making and operations by relevant actors on the ground. The release of such information could put at risk CIVIPOL, CIVIPOL’s partners organizations, their personnel and the Tunisian authorities as well as the strategic planning for the envisaged project activities. This could jeopardize the ability of CIVIPOL and other actors to provide support activities in Tunisia and ultimately impede future access to final beneficiaries.

Having regard to the above, I conclude that there is a reasonably foreseeable and non-hypothetical risk that disclosure of the said documents would undermine the protection of the public interest as regards international relations between the EU and Tunisia. Therefore, I consider that the use of the exception under Article 4(1)(a), third indent, of Regulation (EC) No 1049/2001 is justified, and that access to the documents in question must be refused on that basis.

## **3. Protection of commercial interests of a natural or legal person including intellectual property**

---

<sup>(5)</sup> Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC, Official Journal L 295 of 21 November 2018, p. 39.

Article 4(2), first indent, of Regulation (EC) No 1049/2001 provides that '*[t]he institutions shall refuse access to a document where disclosure would undermine the protection of commercial interests of a natural or legal person, including intellectual property, [...], unless there is an overriding public interest in disclosure*'.

Documents 4-6 include information regarding CIVIPOL's negotiation with DG NEAR; they also include detailed information on the project with specific reference to, inter alia, CIVIPOL's activities, framework of activities, timelines, outcomes, risks, and budget. Such information, if released, could jeopardize CIVIPOL's advantage in terms of cost-effectiveness and efficiency over other entities implementing or aiming to implement similar projects worldwide and that may also apply for funding from the EU. It could severely interfere with CIVIPOL's negotiation with other partners involved in Tunisia, and possibly elsewhere, but also with other programmes funded by the EU and/or other entities.

In addition, document 14 contains information on UNOPS bank details.

It should be noted that the exception relating to commercial interests can be applied to non-commercial entities, such as non-profit associations or even public entities like CIVIPOL and UNOPS. This is due to the fact that giving access to the requested information could be used to distort competition in future award procedures, because of its commercial value. Alternatively, their disclosure can prejudice the legitimate interests of economic operators who participated in the relevant procedures.

In consequence, there is a real and non-hypothetical risk that public access to the abovementioned information would undermine the '*commercial interests*' of the third parties.

### **No overriding public interest in disclosure**

The exception laid down in Article 4(2), first indent, of Regulation (EC) No 1049/2001 must be waived if there is an overriding public interest in disclosure. Such an interest must, firstly, be public and, secondly, outweigh the harm caused by disclosure.

In your application, you do not invoke any interest except your own interest which is of a private nature. For these reasons, you have not established arguments that would show the existence of an overriding public interest in disclosure at this point in time. Neither has DG NEAR identified such an overriding public interest, based on the elements in its possession.

For all these reasons, I do not see in the case at hand a public interest within the meaning of Regulation (EC) No 1049/2001, that is to say objective and general in nature and which is not indistinguishable from individual or private interests that would outweigh the public interest in protecting the commercial interests.

### **Means of redress**

For the sake of good order, I further refer to Article 7(2) of Regulation (EC) No 1049/2001. In accordance with this Article, you are entitled to make a confirmatory application requesting the Commission to review this position.

Such a confirmatory application should be addressed to the Secretary-General of the Commission within 15 working days upon receipt of this letter and can be submitted in one of the following ways:

**by asking for a review via your ‘EASE’ portal <sup>(6)</sup> account** (available only for initial requests submitted via the portal account)

**or by mail:**

European Commission

Secretariat-General

Transparency, Document Management & Access to Documents (SG.C.1)

BERL 7/076

B-1049 Bruxelles/Brussel

**or by email to:** [sg-acc-doc@ec.europa.eu](mailto:sg-acc-doc@ec.europa.eu)

Yours sincerely,

(e-signed)

Gert Jan KOOPMAN

Enclosures: 1, 2, 7-15

---

<sup>(6)</sup> <https://www.ec.europa.eu/transparency/documents-request>