

Mr/Ms Lea Pfau

Email: l.pfau.██████████@fragdenstaat.de

Our ref: TO/PAD-2020-00123
Please quote when replying.

Warsaw, 16 November 2020

Your application for access to European Border and Coast Guard Agency (Frontex) documents

Dear Mr/Ms Pfau,

In reference to your application registered on 1 October 2020 for which the time limit has been extended by 15 working days on 22 October 2020¹, asking for access to

On 6 July 2020, Frontex Director Fabrice Leggeri stated before the European Parliament's LIBE Committee "There was clearly apparently a misunderstanding of the operational plan."

This statement was made in reference to the incident involving a Danish patrol boat which reportedly refused to follow an order to push back migrants at sea.

Under the right of access to documents in the EU treaties, as developed in Regulation 1049/2001, I am requesting the following documents: All documents that served as a basis for obtaining the aforementioned conclusion, as expressed by Mr Leggeri.

This includes, but is not limited to

- All correspondence - including all attachments - regarding, mentioning or discussing the Danish patrol incident, and/or Frontex's role in this incident;*
- All relevant operational plans, including all annexes;*
- All reports, evaluations, studies and analysis of any kind conducted by Frontex regarding or in response to the Danish patrol boat incident, and/or Frontex's role in this incident;*
- A list of all meetings held where the incident and/or Frontex's role in this incident were discussed or mentioned, as well as all minutes of these meetings.*

Further to your clarifications and to consider your application as four individual applications with Regulation (EC) No 1049/2001 being applicable to each, your

Application 1: Correspondence and the list of meetings

In terms of the scope, I will agree to limit "correspondence" to e-mails, letters, memos and phone logs, including all attachments. I will also limit the next point to: reports, evaluations and briefings.

¹ In accordance with Article 7(30) of 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).

Finally, in terms of the search criteria, I believe my initial request - and subsequent clarifications - were clear enough. I am interested in documents (as per my initial request and further clarifications) mentioning or regarding the Danish patrol boat incident.

Was registered.

Please be informed that Frontex has identified one document based on your search criteria, which is herewith attached.

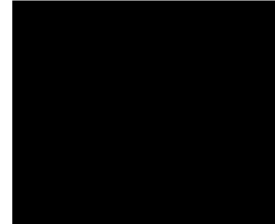
Redactions pertain to:

- Personal data, in particular, the name of an individual. The disclosure would undermine the protection of privacy and the integrity of the individual, in particular in accordance with European Union legislation regarding the protection of personal data and therefore has to be precluded pursuant to Article 4(1)(b) of Regulation (EC) No 1049/2001;
- Detailed information on the means of communication used by law enforcement officials. The disclosure of this information would put law enforcement officials' work in jeopardy and harm the course of future and ongoing operations aimed at curtailing the activities of organized criminal networks involved in the smuggling and migrants and trafficking in human beings. As the disclosure of such pieces of information would undermine the protection of the public interest as regards public security, it must therefore be refused as laid down in Article 4(1)(a) first indent of Regulation (EC) No 1049/2001;
- Detailed information regarding the modus operandi of law enforcement officials performing return and return-related activities. Disclosing such information would expose the working methods used in ongoing and future operations, putting at risk the efforts made by the European Union and its Member States to return third-country nationals who are subject to national return decisions. This would endanger the public order as well as Member States' security and, concretely, jeopardize the orderly conduct of return flights as well pose a hazard to the safety of aircraft, passengers and crew. In this light, the disclosure of such information would undermine the protection of the public interest as regards public security as laid down in Article 4(1)(a) first indent of Regulation (EC) No 1049/2001¹ and therefore must be refused;
- Detailed information related to reporting tools and methods used by law enforcement officials to conduct border control tasks and counter criminal activities. Its disclosure would jeopardize the implementation of ongoing and future operations, and thus facilitate irregular migration and trafficking in human beings as the effectiveness of law enforcement measures would be significantly reduced. As disclosing this information would undermine the protection of the public interest as regards public security, this part is not disclosed pursuant to Article 4(1)(a) first indent of Regulation (EC) No 1049/2001.

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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 the registration of such application. You can submit your confirmatory application by post or electronically.

Yours sincerely,



Senior Legal Officer

Attachment/s: 1 document, 9 pages