

Disclaimers of Non-disclosure

<p>Sensitive operational information</p>	<p>The non-disclosed text cannot be released as it refers to details crucial for situational awareness at the external borders of the European Union which is used by Frontex to conduct its operational activities and to develop risk analyses. The disclosure of this information would hamper the effectiveness of Frontex operations and jeopardise the efforts carried out by the European Union and Member States to curtail criminal activities at the external borders. It would thus benefit criminal networks especially those involved in people smuggling and trafficking in human beings, which would put the life of migrants in danger. Hence, the disclosure of the information pertaining to this variable would undermine the protection of the public interest as regards public security and has to be refused based on Article 4(1)(a) first indent of Regulation (EC) No 1049/2001.</p> <p>The information related to this non-disclosed text is also used for the development of risk analyses, which constitute a specific form of internal decision-making processes based on the intelligence derived from previous and presently ongoing activities and have a bearing on the conduct of current and future operations. Being an important base for determining the strategic orientation of the Agency, the possibility to conduct such analyses without interference is crucial for Frontex to effectively exercise its mandate. Consequently, releasing this information would enable third parties to gain insights into this decision making process and, with ascertainable likelihood, result in depriving Frontex of the possibility to conduct such analyses wholly independently, free from any external pressure or third-party influence. In sum, releasing this information would seriously undermine Frontex internal decision making-processes. As no overriding public interest that is objective and general in nature and not indistinguishable from individual or private interests for the release of this information is ascertainable in the present case, information pertaining to this variable cannot be released based on Article 4(3) of Regulation (EC) No 1049/2001.</p>
<p>Number and type of technical equipment</p>	<p>The non-disclosed parts contain information regarding the technical equipment deployed in each operational area. Disclosing such information would be tantamount to disclosing 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 1049/2001.1</p>

¹ 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 (OJ L 145, 31.5.2001, p. 43).

Operational Area of Joint Operation	The non-disclosed parts refer to details of the operational area and cannot be released. As ongoing operations tend to cover similar operational areas as the operations conducted in preceding years, disclosing details of previous operational areas would be tantamount to disclosing the current state of play. This would provide smuggling and other criminal networks with intelligence, enabling them to change their modus operandi, which would ultimately put the life of migrants in danger. Consequently, the course of ongoing and future operations of similar nature would be hampered by depriving the operations of any strategy and element of surprise, ultimately defeating their purpose to counter and prevent cross-border crime and unauthorized border crossings. In this light, the disclosure of documents containing 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 ² .
Number and profile of Human Resources	The non-disclosed parts contain information regarding the number and profiles of officers deployed in the operational area. Disclosing such information would be tantamount to disclosing the weaknesses and strengths of Frontex operations and pose a risk to their effectiveness. As a result, the course of ongoing and future similar operations would be hampered, ultimately defeating their purpose to counter and prevent cross-border crime and unauthorized border crossings. Consequently, the disclosure of such information would undermine the protection of the public interest as regards public security as laid down Article 4(1)(a) first indent of Regulation (EC) 1049/2001 ³ .
Personal Data	The expunged parts also contain personal data, and/or characteristic features which could lead to the identification of individuals. 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.
Reporting tools and methods used by law enforcement officials	The non-disclosed part contains 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 ⁴ .

² 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 (OJ L 145, 31.5.2001, p. 43).

³ 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 (OJ L 145, 31.5.2001, p. 43).

⁴ 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 (OJ L 145, 31.5.2001, p. 43).

Internal decision-making	Disclosing the redacted part would seriously undermine internal decision-making processes regarding current and future activities of Frontex and Member States. The ongoing discussions taking place within Frontex and under its auspices and involving numerous stakeholders require special protection. Namely, disclosing the redacted parts would reveal negotiation positions of the stakeholders, which would erode the mutual trust among all participants. Such information would enable third parties to draw preliminary conclusions and thus, hamper ongoing and future negotiations. 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 in the present case, these documents cannot be released based on Article 4(3) of Regulation (EC) No 1049/2001.
Ongoing court proceedings	Access to the requested documents must be refused pursuant to Article 4(2) second indent of Regulation (EC) No 1049/2001, as their release would undermine the protection of ongoing court proceedings. The disclosure of these documents would compromise the equality of arms and would diminish Frontex's ability to defend itself, especially by revealing the position of Frontex on contentious issues. An 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.
Ongoing investigations	Although further documents have been identified, the investigations triggered by them are not yet concluded and their disclosure at the present stage would jeopardise ability of Frontex and Member States to evaluate any irregularities and to verify facts and information with a view to make a decision. Consequently, access to the serious incident reports has to be refused based on Article 4(2) third indent of Regulation (EC) No 1049/2001 as their disclosure would undermine the protection of the purpose of investigations. 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 in the present case.
International Cooperation and Engagement	Access to the documents has to be refused as their disclosure would undermine the protection of the public interest as regards international relations as laid down in Article 4(1)(a) third indent of Regulation (EC) No 1049/2001 ⁵ . Effective cooperation with third countries is crucial for Frontex and therefore, the unilateral disclosure of these documents must be refused as such would jeopardise the mutual trust of all parties, an essential prerequisite for establishing international relations and ensuring the effectiveness of negotiations in this regard. Moreover, the formulation of negotiating positions involves a number of tactical considerations of all negotiators involved - including Frontex. Consequently, the disclosure of the information would negatively effect on the ability of Frontex and other parties to establish a meaningful cooperation or engagement. In this regard, it is not possible to provide further information as to further justifications impeding the disclosure of the documents without revealing their contents and thereby depriving this exception of its very purpose.

⁵ 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 (OJ L 145, 31.5.2001, p. 43).