

[REDACTED]

By email

Subject: Reply to your request for access to documents No 03/2022

Dear [REDACTED]

With your application for access to documents dated 1 February 2022 (Annex 1), registered on 2 February 2022 under the reference number 03/2022 (Annex 2), you requested access to the following documents:

- *“Presentation on the “SIS II Security Exercise 2022””* and
- *“Documents for preparatory meetings of the SIS II Advisory Group”*.

On 9 February 2022, the Agency informed you that your request relating to *“documents for preparatory meetings of the SIS II Advisory Group”* was very generic and, for this reason, in accordance with Article 6(2) of the Regulation (EC) No 1049/2001¹, invited you to further clarify the scope of your request and to provide more detailed information on the document(s) to which you would like to have access (Annex 3).

On the same day (9 February 2022), you replied that *“[you] refer to the 38th meeting of the SIS II Advisory Group of eu-LISA, 30 September 2021. There, eu-LISA also presented an overview of the “SIS II Security Exercise 2022”. Four preparatory meetings will accordingly take place in 2022, respectively in March, May, June and September.”*. You specified you would like *“to see the mentioned presentation and also all information that was produced in meetings to prepare eu-LISA’s work in the “SIS II Security Exercise 2022”* (Annex 4).

The Agency acknowledged receipt of your clarification on 9 February 2022. However, in the same email, the Agency informed you that your request for *“all information that was produced in meetings to prepare eu-LISA’s work in the “SIS II Security Exercise 2022”* was still very generic. For this reason, in accordance with Article 6(2) of the Regulation (EC) No 1049/2001, you were invited again provide more detailed information on the documents, besides the PowerPoint presentation, from the SIS II Advisory Group which you would like to have access to. In particular, the Agency invited you to specify to which type of documents (e.g. agendas) and/or for which time period you would like to have access (Annex 5).

On the same day (9 February 2022), you provided an additional clarification to your request, stating that *“apart from the above mention[ed] presentation, [you] want to receive all invitations to past meetings of the group plus agendas and lists of the attendees; and, if already drafted, invitations and agendas for future meetings.”* (Annex 6).

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. 43–48).

On 10 February 2022, the Agency acknowledged receipt of your additional clarification and informed you of the time-limit of fifteen (15) working days to reply to your request (Annex 7).

In order to facilitate the processing of your request, the Agency has decided to divide it into three (3) parts, in accordance with the points of the above request and the subsequent clarifications:

- Part 1: Presentation on the "SIS II Security Exercise 2022";
- Part 2: Invitations, agendas and lists of attendees of the past meetings of the SIS II Advisory Group in which the "SIS II Security Exercise 2022" was prepared;
- Part 3: Invitations and agendas for future meetings of the SIS II Advisory Group in which the "SIS II Security Exercise 2022" will be mentioned/analysed.

Your request was assessed in light of the principles and conditions defined by the Regulation (EC) No 1049/2001 and the relevant case-law.

Decision

- **Part 1: Presentation on the "SIS II Security Exercise 2022"**

Regarding the part 1 of your request, the Agency has identified the document which falls within the scope of your request, namely the Power Point Presentation titled "SIS II Exercise 2022".

Following a thorough examination of the document, the Agency has decided to grant you partial access to the document in question, which is hereby attached (Annex 8). Full disclosure is prevented by an exception laid down in Article 4(1)(a) of the Regulation (EC) No 1049/2001.

Assessment: reasons for partial disclosure

The detailed explanation for the partial disclosure of the document is provided below.

- **Protection of the public interest as regards public security**

Article 4(1)(a) first indent of the Regulation (EC) No 1049/2001 provides that "*the institutions shall refuse access to a document where disclosure would undermine the protection of (...) the public interest as regards (...) public security*".

The presentation "SIS II Exercise 2022" contains information on the organisation and the execution of the SIS II Exercise in 2022. A similar exercise took place in 2018, which resulted in recommendations regarding the following categories: people, policies and processes, and technology.

The last slides of the presentation "SIS II Exercise 2022" contain the status of the recommendations of the SIS II Exercise of 2018.

Disclosing such information constitutes a public security risk due to the sensitivity of the recommendations therein and their categorisation. In particular, the release of those slides to the public reveals the weaknesses of the SIS II which could facilitate malicious actions to disrupt or tamper with the confidentiality, integrity and availability of the information of the system.

Therefore, the full disclosure of the requested document would undermine the protection of the public interest as regards public security, in accordance with Article 4(1)(a) first indent of the Regulation (EC) No 1049/2001. Thus, limited parts of the requested document containing information on the SIS II Exercise of 2018, have been redacted.

No overriding public interest in disclosure

The exception laid down in Article 4(1)(a) of the Regulation (EC) No 1049/2001 does not need to be balanced against any possible overriding public interest in disclosure.

- **Part 2: Invitations, agendas and lists of attendees of the past meetings of the SIS II Advisory Group in which the "SIS II Security Exercise 2022" was prepared**

Regarding the part 2 of your request, the Agency has identified the following documents which fall within the scope of your request:

- Document 1: Invitation to the 38th meeting of the SIS II Advisory Group;
- Document 2: Invitation to the 40th meeting of the SIS II Advisory Group;
- Document 3: Draft agenda of the 38th meeting of the SIS II Advisory Group;
- Document 4: Draft agenda of the 40th meeting of the SIS II Advisory Group;
- Document 5: List of attendees of the 38th meeting of the SIS II Advisory Group;
- Document 6: List of attendees of the 40th meeting of the SIS II Advisory Group.

Following a thorough examination of the documents, the Agency has decided to grant you full access to Documents 1 and 2, which are hereby attached (Annexes 9 and 10).

Furthermore, the Agency has decided to grant you partial access to Documents 3, 4, 5 and 6, which are also hereby attached (Annexes 11 to 14). Full disclosure of Documents 3, 4, 5 and 6 is prevented by an exception laid down in Article 4(1)(b) of the Regulation (EC) No 1049/2001.

Assessment: reasons for partial disclosure

The detailed explanation for the partial disclosure of Documents 3, 4, 5 and 6 is provided below.

- **Protection of the privacy and the integrity of the individual (protection of personal data)**

Pursuant to Article 4(1)(b) of the Regulation (EC) No 1049/2001, access to a document has to be refused if its 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.

The Court of Justice of the European Union ruled, in its judgment in the *Bavarian Lager case*², that when a request is made for access to documents containing personal data, the Regulation (EC) No 45/2001 (now repealed by Regulation (EU) 2018/1725³) becomes fully applicable.

According to Article 3(1) of the Regulation (EU) 2018/1725, personal data "means any information relating to an identified or identifiable natural person ('data subject'); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors

² Judgment of 29 June 2010, Commission v Bavarian Lager, C-28/08 P, EU C:2010:378, paragraph 63.

³ 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 (OJ L 295, 21.11.2018, p. 39-98).

specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person".

Documents 3, 4, 5 and 6 contain personal data and in particular names and surnames, e-mail contact addresses and other elements, which could serve to identify the individuals concerned. Thus, limited parts of the documents have been redacted.

The disclosed names and surnames correspond to the members of the SIS II Advisory Group. The list of the members is available on eu-LISA's website under the following link:

<https://www.eulisa.europa.eu/About-Us/Organisation/Sis-li-Advisory-Group>

No overriding public interest in disclosure

The exception laid down in Article 4(1)(b) of the Regulation (EC) No 1049/2001 does not need to be balanced against any possible overriding public interest in disclosure.

- ***Part 3: Invitations and agendas for future meetings of the SIS II Advisory Group in which the "SIS II Security Exercise 2022" will be mentioned/analysed***

Considering the date of the registration of your request (2 February 2022), I regret to inform you that the Agency does not hold the requested invitations or agendas for the future meetings of the SIS II Advisory Group, in which the "SIS II Security Exercise 2022" will be mentioned/analysed.

According to Article 2(3) of Regulation (EC) No 1049/2001, the right of access as defined in that Regulation applies only to documents held by the Agency.

Appeal/ legal redress

Kindly note that you may file a confirmatory application within 15 (fifteen) working days of receiving this letter.

Yours sincerely,

Qualified electronic signature by:
KRUM EMILOV GARKOV
Date: 2022-02-28 14:42:47 +01:00

Krum Garkov
Executive Director

Annexes:

- Annex 1: Your request for access to documents;
- Annex 2: Acknowledgment of your request;

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- Annex 3: Request for clarification;
- Annex 4: Your clarification message;
- Annex 5: Acknowledgment of receipt of your clarification and request for additional clarification;
- Annex 6: Your additional clarification message;
- Annex 7: Acknowledgment of receipt of your additional clarification;
- Annex 8: Presentation on the "SIS II Exercise 2022";
- Annex 9: Document 1 - Invitation to the 38th meeting of the SIS II Advisory Group;
- Annex 10: Document 2 - Invitation to the 40th meeting of the SIS II Advisory Group;
- Annex 11: Document 3 – Draft agenda of the 38th meeting of the SIS II Advisory Group;
- Annex 12: Document 4 – Draft agenda of the 40th meeting of the SIS II Advisory Group;
- Annex 13: Document 5 - List of attendees of the 38th meeting of the SIS II Advisory Group;
- Annex 14: Document 6 - List of attendees of the 40th meeting of the SIS II Advisory Group.