



Subject: Access to documents application

Dea 

Thank you again for your interest in the activities of the European Maritime Safety Agency (EMSA).

This is a reply to your application for access to documents registered on 24 February 2022, whereby you requested: ***“the following documents concerning the European Coast Guard Functions Forum Workshop on RPAS for Maritime Surveillance 2022:***

a) Correspondence - including, but not limited to, letters, e-mails, and any attachments

b) Documents – including, but not limited to, evaluations, descriptions, briefing, notes, reports, analysis, presentations, list of participants”.

Please be informed that your application has been processed in line with the provisions of Regulation (EC) No 1049/2001 of the European Parliament and of the Council regarding public access to documents.

The following documents have been identified as falling within the scope of your application:

Enclosure 1

1. ECGFF EMSA RPAS WG Event Report
2. Airbus ECGFF Presentation
3. REACT ECGFF Presentation
4. Schiebel ECGFF Presentation
5. Nordic Unmanned ECGFF Presentation
6. EMSA RPAS ECGFF Estonia Presentation
7. EMSA RPAS ECGFF Spain Presentation
8. EMSA RPAS ECGFF France Presentation
9. EMSA RPAS ECGFF EMSA Presentation

Enclosure 2

10. EMSA RPAS ECGFF EFCA Presentation
11. EMSA RPAS ECGFF Frontex Presentation
12. EMSA RPAS ECGFF ESA Presentation
13. EMSA RPAS ECGFF EASA Presentation
14. Agenda ECGFF 2022 RPAS workshop-EO hybrid version
15. Final registration ECGFF RPAS
16. Email 16 April 2021 from Croatian ECGFF presidency
17. Email 11 May 2021 from Croatian ECGFF presidency
18. Email 28 September 2021 from Croatian ECGFF presidency

Note that all the above referenced documents, except the ECGFF EMSA RPAS WG Event Report, have been partially redacted as some of their content is covered by the exceptions in Article 4 of Regulation 1049/2001. The redacted parts fall under the exceptions stipulated by Articles 4(1) letter a) first indent, 4(1) letter b) and 4(2) first indent of the Regulation No. 1049/2001.

The respective content has been redacted for the following reasons:

- ✓ non-disclosed parts detail information related to operational methods/ patterns (including specific areas) used by law enforcement officials to conduct border control tasks and counter criminal activities. Their disclosure would jeopardize the implementation of ongoing and future operations, as the effectiveness of law enforcement measures would be significantly reduced. Disclosing this information would undermine the protection of the public interest as regards public security, pursuant to Article 4(1)(a) first indent of Regulation (EC) No 1049/2001.
- ✓ non-disclosed parts refer to specifics of technical equipment that are not publicly available to our knowledge. Disclosing such information would be tantamount to disclosing the exact type and capabilities of the equipment. This would open way for abuse, as releasing such information (e.g. as numbers and types of equipment) would benefit terrorist organizations and criminal networks, enabling them to change their modus operandi as to avoid being intercepted and would consequently result in hampering the course of ongoing and future similar operations. This would ultimately obstruct the purpose of such operations: to counter and prevent cross-border crime, unauthorized border crossings or other illegal activities. In light of this, the disclosure of information regarding the technical equipment deployed 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.
- ✓ non-disclosed parts constitute personal data, in particular the names of individuals. The provisions of Article 4.1(b) of the Regulation foresee that access to a document shall be refused where disclosure would undermine the protection of the privacy and integrity of the individual, in particular in accordance with Community legislation regarding the protection of personal data. In case of personal data, the provisions of Regulation (EU) 2018/1725 shall apply. This Regulation protects “personal data” which means any information relating to an identified or identifiable person. Surnames and forenames constitute, in themselves, personal data and thus fall within the scope of Article 4.1(b). Given that your application for access to documents did not contain any express and legitimate justifications or arguments substantiating the need to obtain the personal data concerned, the conclusion is that all personal data in the documents shall be protected and therefore not disclosed.
- ✓ non-disclosed parts contained in the documents include information relating to commercial companies’ technologies and proposed solutions in implementation of ongoing contracts, which is information carrying a commercial value. In respect of the redacted parts which refer to specifics of the technical equipment used, these clearly constitute commercial information and IPR of the contractor. The provisions of Article 4.2 of the Regulation foresee that access shall be refused “where disclosure would undermine the protection of [...]: commercial interests of a natural or legal person, including intellectual property [...]” As such, the information carrying a commercial value, relating to the execution of a service or of an action, or of which third parties hold the IPR falls under this exception, given that the disclosure of such information to the general public, including a potential competitor on the market, would undermine the protection of the respective legal person’s expertise, strategy and creativity and thus their commercial strength, including intellectual property.

In conclusion, all related information falling under the above - mentioned exceptions shall be protected as it is very likely that the disclosure of it would be liable to undermine the interest protected by the exceptions in question.

Note that certain parts which would fall under the same categories as above were left unredacted if these were identified as already made public by the owners of the documents prior to this application.

Additionally, a separate assessment of the application for access to documents was performed in order to assess if there is an overriding public interest in disclosure that would justify non-application of the exception in Article 4.2. With regard to this aspect and seeing there was no such argument put forward by the applicant, it was found that there is no such interest at stake as to justify public disclosure overriding the mentioned exceptions.

Due to the large size of the attachments this reply shall be followed-up by a subsequent email containing the second Enclosure only.

Note that, in line with Article 7(2) of Regulation (EC) No.1049/2001 of the European Parliament and of the Council regarding public access to documents, you may file a confirmatory application within 15 working days of receiving this email.

Kind regards,
EMSA Document Access Coordinator