

Mr/Ms Judith Doleschal

Email: [REDACTED]

Our ref: TO/PAD-2022-00394  
Please quote when replying.

Warsaw, 26 October 2022

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

Dear Mr/Ms Doleschal,

Further to the consensus reached on 26 January 2022 re your application PAD-2021-00358, your application is divided into 16 applications with approximately 15 SIRs each to be considered consecutively with Regulation (EC) No 1049/2001<sup>1</sup> being applicable to each.

This application was registered on 6 October 2022, asking for access to

*Application 12 - 15 SIRs*

*All Serious Incident Reports (SIRs) filed between August 2020 and now.*

Please find one document herewith attached. Kindly note however that some limited parts thereof fall under exceptions under Article 4 of Regulation (EC) No 1049/2001 and had to be expunged with detailed justifications in the attached legend.

The remaining documents cannot be released as in addition the applicability of all exceptions indicated in the attached legend, they contain legal advice. In regard to this last point, access to the documents has to be denied as their disclosure would undermine the ability of Frontex to provide frank, objective, and comprehensive advice as the sphere of trust, in which this advice is provided, would be severely impaired. Simultaneously, the ability of Frontex to receive such frank, objective and comprehensive legal advice from external counsel would also be undermined. In addition, the legal advice concerns also information contained in the documents and is linked thereto in regard to Frontex position on contentious issues raised during ongoing court proceedings which is presently being formed, the release of these pieces of information contained in the documents would compromise the equality of arms and would diminish Frontex's ability to defend itself - especially by revealing the internal positions of a legal nature. 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 not ascertainable. In this light, 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 legal advice.

<sup>1</sup> 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).



In is thus that no partial release is possible.

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Pursuant to Article 7(2) of Regulation (EC) No 1049/2001, within 15 working days of the receipt of this reply, you may submit a confirmatory application.

A confirmatory application, indicating the reference of your initial application, may be submitted electronically to: <https://pad.frontex.europa.eu/padrequests/create>,

by mail to: European Border and Coast Guard Agency, Transparency Office,  
pl. Europejski 6, 00-844 Warsaw/Poland

or by email to: [pad@frontex.europa.eu](mailto:pad@frontex.europa.eu) or [frontex@frontex.europa.eu](mailto:frontex@frontex.europa.eu).

Based on Article 8 of Regulation (EC) No 1049/2001, Frontex will reply within 15 working days from the registration of such application.

Yours sincerely,

[Decision signed electronically]  
*Case Handler of the Transparency Office*