

## **Letter from the European Ombudsman to the European Border and Coast Guard Agency (Frontex) on how it dealt with a request for public access to documents concerning tracking data of vessels used in Frontex maritime operations**

Correspondence - 10/02/2021

**Case** 233/2021/OAM - **Opened on** 10/02/2021 - **Decision on** 30/03/2021 - **Institution concerned** European Border and Coast Guard Agency ( No maladministration found ) |

Mr Michael Juritsch

Head of the Inspection and Control Office

European Border and Coast Guard Agency

Strasbourg, 10/02/2021

Complaint 233/2021/OAM

**Subject of case:** How the European Border and Coast Guard Agency (Frontex) dealt with a request for public access to documents concerning tracking data of vessels used in Frontex maritime operations

Frontex references: DCGO/TO/PAD-2020-00204 and TO/PAD-2020-00177

Dear Mr Juritsch,

The Ombudsman has received a complaint from Ms X, Member of the European Parliament, against Frontex. She has asked me to deal with the case on her behalf.

The complainant is seeking public access to documents concerning tracking data of 16 vessels used in Frontex maritime operations between March and 29 September 2020.

Frontex initially informed the complainant that the information requested was included, to a



limited extent, in documents it had identified, without however listing the respective documents. It refused access because disclosure of the documents in question would undermine the protection of the public interest as regards public security and the protection of personal data.

[1] At the confirmatory stage, Frontex told the complainant that following a reassessment of the request, no documents were identified.

We have decided to open an inquiry into this complaint.

Regulation (EC) 1049/2001 states that applications for public access should be handled promptly. It is in line with this principle that the Ombudsman also seeks to deal with cases such as this as quickly as possible.

As a first step, we consider it necessary to review:

- i. documents held by Frontex identified at the initial stage as falling under the scope of the complainant's request, or samples thereof, for example, concerning only some of the vessels, and
- ii. any internal correspondence by Frontex in relation to its handling of the complainant's request.

I would be grateful if Frontex could provide us with copies of these documents, preferably in electronic format [2], by 16 February 2021. If there are any questions as to how to proceed, the case handler can be contacted beforehand.

The documents subject to the public access request and related correspondence will be treated confidentially, along with any other material Frontex chooses to share with us that it marks confidential. Documents of this kind will be handled and stored in line with this confidential status and will be deleted from the Ombudsman's files shortly after the inquiry has ended.

A meeting between Frontex and the Ombudsman's inquiry team at which we can discuss this case could be envisaged at a later stage, once the documents have been reviewed. If Frontex considers it useful to hold the meeting sooner, please let us know.

If you have any questions, please feel free to contact the case handler, Ms Oana Marin.

Yours sincerely,

Rosita Hickey Director of Inquiries

[1] Article 4(1)(a) and Article 4(1)(b) of Regulation (EC) No 1049/2001.



[2] By encrypted e-mail to the Ombudsman's Information Technology Officer