

Your ref. EO case 1259/2024/NH

Ms Emily O'Reilly

European Ombudsman

Warsaw, 4 February 2025

**Subject:** Reply to the proposal for a solution of the European Ombudsman in the case Ref. 1259/2024/NH on how the European Border and Coast Guard Agency (Frontex) dealt with a request for public access to documents related to guidance on return addressed to children (your reference: PAD-2024-00249)

Dear Ms O'Reilly,

In response to your letter of 28 October 2024 regarding complaint Ref. 1259/2024/NH, and the proposed solution according to which:

- Frontex should reconsider its position on the complainant's request, with a view to granting the widest possible access to the documents at issue.
- Frontex should provide the complainant with a list of identified documents.

I am pleased to inform you that following your proposal, Frontex agrees to provide partial access to the documents at issue, which you find herewith attached. Frontex is strongly committed to giving the fullest possible effect to the fundamental right of access to documents as laid down in Regulation (EC) No 1049/2001. Limited parts of these documents fall under exceptions under Article 4 of Regulation (EC) No 1049/2001<sup>1</sup> and therefore had to be expunged, with detailed justifications for non-disclosed elements indicated in each document and further elaborated in the attached legend.

Further to the reassessment of the documents, and as explained to the complainant in Decisions PAD-2024-00249 and PAD-2024-00201, certain elements of the documents, continue also now to fall under the interests protected under Article 4(1)(a) first and third indent and 4(1)(b) of Regulation (EC) No 1049/2001. These elements were redacted as they contain personal data, and/or characteristic features which could lead to the identification of individuals, respectively information which would foreseeably undermine the protection of the public interest as regards public security and international relations.

Moreover, access to limited parts of the documents must be refused pursuant to Article 4(2) first indent and Article 4(3) of Regulation (EC) No 1049/2001, as their disclosure would seriously undermine the protection of commercial interests and undermine the protection of internal decision-making processes regarding current and future activities of Frontex, which require special protection. There is no overriding public interest in disclosure that outweighs the need to protect the decision-making process and commercial, in particular also as the absolute exceptions under Article 4(1)(a) first and third indent and (b) of Regulation (EC) No 1049/2001 had to be invoked.

In addition to the above, please note that further to Frontex's reassessment of partial access of the 76 documents, document no. 2 ("*FW Voluntary based returns of UAMs - Requirements for Fx support - DPO*"), which includes two attachments forming an integral part of said document, has been deemed to fall out of scope of the initial request. The files in question constitute part of an ongoing internal consultation phase on a future project related to the voluntary-based returns of unaccompanied minors (UAMs). This project is separate from and unrelated to the *Toolbox for Children in Return*, which was the subject of the complainant's original request. In the interest of transparency and to ensure that we provide the most

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<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).

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relevant information to the complainant, we have thus determined that document no. 2 does not fall within the scope of the initial request and updated our list of identified documents to reflect this finding.

In reply to your proposal to provide the complainant with a list of identified document, as already elaborated in Frontex's additional views in the present case, Frontex does not recognise a legal obligation which would entail a duty to list identified documents falling within the scope of all public access to documents applications under Regulation (EC) No 1049/2001. Nonetheless, in this particular instance, Frontex agrees to provide the list of identified document to the applicant, which is herewith attached.

Frontex has no objection to share the information contained in your proposal for a solution as well as this letter with the complainant.

I would like to thank you for the possibility to exchange views on the present case and note that my staff are ready to engage with your Team to provide any further information deemed helpful.

Yours sincerely,

*Electronically signed*

Hans Leijtens  
Executive Director

Number	SUBJECT	ATTACHMENT		
		NUMBER	NAME of Attachment	NUMBER of attachments
1	RE: [Request ID : #RE-336816#] ] : Word template	3796837		
2	Toolkit for parents with children in VR	3796849		
3	FW: Update on the booklets for Children in Return	3796855		
4	Update on the Children booklet	3796862	Suggested revisions to booklet on procedu	2
5	RE: Update on the Children booklet	3796870		
6	RE: Update on the Children booklet_1	3796927	Suggested revisions to booklet on procedu	1
7	RE: Update on the Children booklet_2	3796948		
8	Update after the meeting on 24-25 November	3796952	Revisions for Book for children in return; A	7
9	[EXTERNAL] adolescents adaptation	3796955	Booklet content based on the procedures c	1
10	[EXTERNAL] Re: Update after the meeting on 24-25 November	3796959	Book for teenagers in return; Book for chilc	3
11	RE: Update after the meeting on 24-25 November	3796960		
12	Re: [EXTERNAL] adolescents adaptation	3796961	Booklet content based on the procedures c	1
13	[EXTERNAL] Re: Update on the developments for the Toolbox for Children	3796971	Book for children_F1_RNJ feedback	1
14	RE: Update on the developments for the Toolbox for Children	3796979		
15	Re: [EXTERNAL] Re: Text for "The future"	3796981		
16	Re: [EXTERNAL] Re: Update on the developments for the Toolbox for Children	3796986	22.0157_Dobook adaptation + cover prop_	1
17	RE: Request for feedback on books for the Toolbox for Children in Return	3796999		
18	RE: Feedback request on the Guidebook for Teenagers	3797007		
19	[EXTERNAL] Re: update	3797022	22.0146_Teenager guidebook draft_F2 (1)	1
20	RE: Feedback request on the Guidebook for Teenagers	3797045		
21	FW: [EXTERNAL] Re: update	3797051	Manual for parents or guardians; Book for	2
22	RE: [EXTERNAL] Book for children_22.0145	3797056		
23	Feedback request on the Guidebook for Teenagers	3797063		
24	RE: Guidebook for UAMs	3797077		
25	RE: Manual for parents or guardians	3797079		
26	RE: Guidebook for UAMs_1	3797099		
27	RE: Manual for parents or guardians	3797124		
28	Re: [EXTERNAL] Re: update	3797131		
29	RE: Guidebook for UAMs_2	3797161		
30	RE: Manual for parents or guardians	3797179		
31	Book for UAMs	3797185	Book for UAMs in return	1
32	RE: Feedback on the final version of the do book	3797189		
33	teenager booklet and children's booklet	3797197		

34 text on "the future" for youth and UAMs	3797203	
35 and the Activity Book	3797218 Activity Book-DRAFT version (ZIP file)	1
36 Guidebook for Children	3797233 Guidebook for Children-final draft (ZIP file)	1
37 Guidebook for Youth	3797237 Guidebook for Youth-final draft	1
38 [EXTERNAL] Re: Book for UAMs	3797251 Book for UAMs in return (3); Manual for pa	2
39 [EXTERNAL] Re: text on "the future" for youth and UAMs	3797260	
40 [EXTERNAL] Feedback toolbox books	3797268	
41 FW: [EXTERNAL] Re: Book for UAMs	3797279 Book for UAMs in return; Manual for paren	2
42 [EXTERNAL] Re: Book for UAMs / Manual for Parents or Guardians	3797297 Book for UAMs in return; Manual for paren	2
43 Re: [EXTERNAL] Re: Book for UAMs / Manual for Parents or Guardians	3797313 Book for UAMs in return - RNJ edits	1
44 Re: FW: [EXTERNAL] Re: Book for UAMs	3797325 Book for UAMs in return (5); Manual for pa	2
45 Updated Book for UAMs	3797336 Book for UAMs in return	1
46 Updated Manual for Parents or Guardians	3797350 Manual for parents or guardians	1
47 [EXTERNAL] parents	3797362 Manual for parents or guardians	1
48 RE: Updated Manual for Parents or Guardians	3797368 Manual for parents or guardians update	1
49 RE: Updated Manual for Parents or Guardians_1	3797391	
50 RE: Updated Book for UAMs	3797406	
51 [EXTERNAL] Re: Updated Manual for Parents or Guardians	3797415 Manual for parents or guardians update	1
52 [EXTERNAL] end of parents manual	3797428 End of manual for parents or guardians	1
53 RE: Updated Book for UAMs_1	3797461 Book for UAMs in return	1
54 RE: Updated Book for UAMs_2	3797494	
55 RE: Updated Book for UAMs_3	3797501	
56 RE: Updated Manual for Parents or Guardians_2	3797534	
57 Updated Book for UAMs	3797570 Book for UAMs in return	1
58 Updated Manual for Parents or Guardians	3797599 Manual for parents or guardians	1
59 RE: Updated Book for UAMs	3797638	
60 RE: Updated Manual for Parents or Guardians_1_1	3797667	
61 RE: Guidebook for unaccompanied children	3797685	
62 RE: hot from the press ! the first draft of the Manual for Parents and Guardians	3797692	
63 RE: hot from the press ! the first draft of the Manual for Parents and Guardian:	3797719	
64 RE: Updated Manual for Parents or Guardians_1_2	3797750	
65 RE: Updated Manual for Parents or Guardians_1_3	3797787	
66 RE: Updated Book for UAMs_1_2	3797815	
67 [EXTERNAL] Re: FW: hot from the press ! the first draft of the Manual for Parer	3797822	
68 [EXTERNAL] Parents manual feedback	3797826 Manual for parents or guardians - RNJ feed	1
69 Re: [EXTERNAL] Parents manual feedback	3797829	

70 [EXTERNAL] migration officials brochure	3797833 Book for migration officials	1
71 [EXTERNAL] Re: URGENT - your input on CF comments	3797840 Manual for migration officers_draft	1
72 RE: URGENT - your input on CF comments	3797845	
73 [EXTERNAL] Re: URGENT - your input on CF comments	3797840	
74 RE: Urgent question on feedback options	3797875	
75 RE: E-signatory workflow in ARES	3797880	