

Decision of the Executive Director

No R-ED-2021-67

ED Decision on the Transparency Register

of 05/05/2021

THE EXECUTIVE DIRECTOR,

Having regard to the European Border and Coast Guard Regulation¹ (the “Regulation”), and in particular Article 106(4) thereof,

Whereas:

- (1) In accordance with Article 298 of the Treaty on the Functioning of the European Union, in carrying out their missions, the institutions, bodies, offices and agencies of the Union must have the support of an open, efficient and independent European administration.
- (2) The Agency shall ensure transparency *inter alia* by means of a transparency register that shall include all meetings and contacts between third-party stakeholders and the Executive Director, Deputy Executive Directors and Heads of Division in matters concerning procurements and tenders for services, equipment or outsourced projects and studies in accordance with Article 118 of the Regulation.
- (3) This Decision does not affect the Agency’s commitment to the principle of transparency as developed pursuant to Regulation (EC) No 1049/2001 of the European Parliament and of the Council regarding public access to European Parliament, Council and Commission documents² and laid down in Article 114 of the Regulation and is without prejudice to the obligations deriving from the Financial Regulation in relation with procurement rules³.

HAS DECIDED AS FOLLOWS:

¹ Regulation (EU) 2019/1896 of 13 November 2019 on the European Border and Coast Guard (OJ L 295, 14.11.2019, p. 1).

² 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).

³ Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.7.2018, p. 1).

Article 1

Purpose

The purpose of this Decision is to establish the Transparency Register pursuant to Article 118 of the Regulation.

Article 2

Definitions

For the purposes of this Decision the following definitions shall apply:

- a) **'Transparency Register'** means a tool to register all meetings and contacts of the Executive Director, Deputy Executive Directors and Heads of Divisions in matters concerning procurement procedures and tenders for services, equipment or outsourced projects and studies.
- b) **'Third Party Stakeholder'** refers to 'economic operator as defined in the EU Financial Regulation⁴' meaning any natural or legal person, including a public entity, or a group of such persons, who offers to supply products, execute works or provide services or supply immovable property. This notion does not include representatives of other Union institutions or bodies, national, regional and local authorities of Member States and of third countries or international organisations. However, it covers any association or network created and/or operating to represent market participants, industry, academia, regions or other sub-national public authorities collectively.
- c) **'Frontex's representatives'** means the Executive Director, Deputy Executive Directors or Heads of Division.
- d) **'Event'** means a meeting or contact as defined under points e) and f) of this Article.
- e) **'Meeting'** means a bilateral or multilateral encounter - physical or by means of distance communication - organised at the initiative of the Third Party Stakeholder' or Frontex in a form of a workshop, conference, forum, or any other format in matters concerning procurement procedures and tenders between the representatives of Frontex and Third Party Stakeholders.
- f) **'Contact'** means any planned or unplanned encounter or interaction - orally in person, by means of distance communication or in writing - between the Executive Director, or a Deputy Executive Director or a Head of Division with a Third-Party Stakeholder in matters concerning procurements and tenders for services, equipment or outsourced projects and studies.

Article 3

Exclusions from the scope

1. This Decision shall not apply to contacts or meetings held between Frontex's representatives and Third Party Stakeholders in the context of a procurement procedure after the publication of the relevant contract notice or after the dispatch of call for proposals or expressions of interest. Such contacts and meetings are regulated in the applicable procurement framework and shall be recorded accordingly.

2. This Decision shall not apply to contacts and meetings held with a Frontex representative and a Third Party Stakeholder if such contacts and meetings serve to manage the already established contractual relationship between Frontex as the Contracting Authority, and the Third Party Stakeholder -Contractor, within the framework of the contract implementation phase.

⁴ Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.7.2018, p. 1).

Article 4

Recording

1. Contacts and meetings as defined in Article 2 must be registered and documented in the Transparency Register.
2. The process of recording and registering of contacts and meetings is performed manually.
3. An event defined as meeting or contact shall be registered using the 'Notification form' as set out in Annex to this Decision.
4. Within the time as set in Article 5, the notification form is to be forwarded to the Inspection and Control office for registration and publication.
5. The names/functions of individuals acting on behalf of the Third Party Stakeholder being contacted or attending meetings shall not be made public unless, after balancing of rights in written performed by the data controller, transparency overrides the right to privacy.

Article 5

Publication

The information set out in the Transparency Register shall be published in a standardised format on the website of the Agency within a period of two weeks following the event.

Article 6

Notification

1. The Third Party Stakeholder(s) shall be informed of the fact that the information set out in Article 4(1) will be made public.
2. The Third Party Stakeholder(s) shall be informed on the handling of their Personal Data as set out in Article 4(5).

Article 7

This Decision enters into force on the day following its signature.

Done in Warsaw, on 05/05/2021

Fabrice Leggeri
Executive Director

Annex 1: Notification form for reporting on meeting and/or contact of the Executive Director, Deputy Executive Directors and Heads of Divisions with Third Party Stakeholder(s)

Annex 2: Privacy Statement on the processing of personal data as regards Frontex's Transparency Register

Notification form for reporting on meeting and/or contact of the Executive Director, Deputy Executive Directors and Heads of Divisions with Third Party Stakeholder(s)

Record ID	<i>This is a running number provided by Inspection and Control Office (ICO) on the initiation of the registration of the contact or meeting Here also a link to a registration number can be added</i>
Initiator	<i>Internal entity that initiates the registration of the event; the initiator is also responsible that the information on the publication of the names of the representative of the Third Party Stakeholder is shared with the Third Party Stakeholder</i>
Function hold in Frontex	<i>Executive Director, Deputy Executive Director and Head of Division</i>
Creation Date	<i>Date of the creation of the form</i>
Type of the event (meeting/contact)	<i>Meeting or contact</i>
Date and time of the meeting/contact	<i>Date and time of the meeting or contact.</i>
Self-initiated or requested	<i>Self -initiated or requested</i>
Name of the Third Party Stakeholder (as detailed as possible)	<i>e.g. Deloitte Belgium or Rambol Brussels</i>
Function held in the company	<i>e.g. CEO, head of sales, director of development</i>
Name of the representative of the third party stakeholder	<i>Name to be included in the form however it will not be published unless, after balancing of rights in written performed by the data controller, transparency overrides the right to privacy</i>

PRIVACY STATEMENT ON THE PROCESSING OF PERSONAL DATA AS REGARDS FRONTEX TRANSPARENCY REGISTER

Personal data collected as part of the registration process as regards Frontex's Transparency Register in line with 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.⁵

The controller responsible for the processing operation: the Head of Inspection and Control Office transparency.register@frontex.europa.eu.

Purposes of the processing

The purpose of processing personal data is to implement the respective provisions of the EBCG Regulation⁶ on the prevention of conflicts of interest, as per legal obligation set in Article 118 EBCG Regulation and developed in corresponding ED Decision on the Transparency Register. For the purpose of transparency the functions of individuals (acting on behalf of the Third Party Stakeholder and of the Agency's representatives) being contacted or attending meetings will be made public on the website of the Agency in a standardised format.

Data will be collected and processed for the following purposes:

- to avoid any situation liable to give rise to a conflict of interest during the employment or term of office of the members of the Agency's bodies and its staff
- to report such situations
- to ensure transparency as regards lobbying.

Personal data will not be processed for any other purposes than those defined above.

Legal basis

- Paragraph 2 of Article 118 of the Regulation (Eu) 2019/1896 of the European Parliament and of the Council of 13 November 2019 on the European Border and Coast Guard and repealing Regulations (EU) No 1052/2013 and (EU) 2016/1624 under Article 5(1)(a) of Regulation (EU) 2018/1725

The following category of personal data can be processed:

Function of the person acting on behalf of the Third Party Stakeholder and the Agency's representatives being contacted or attending meetings.

Recipients of personal data

The data will be collected via a 'Notification form' (Annex I of the ED Decision on the Transparency Register) by the Inspection and Control Office who will ensure to register and to publish it in Frontex webpage.

⁵ OJ L 295, 21.11.2018, p.39-98

⁶ Regulation (Eu) 2019/1896 of the European Parliament and of the Council of 13 November 2019 on the European Border and Coast Guard and repealing Regulations (EU) No 1052/2013 and (EU) 2016/1624

Retention period of data

The Inspection and Control Office stores the 'Notification form' in a central archive for two years after the last event triggering an entry in the register.

Rights of the data subjects

Data subject has the right to access his or her data, have it deleted or rectified and restricted, if applicable. To request information about processing of his or her personal data, or exercise their rights, the data subjects can contact the controller at transparency.register@frontex.europa.eu or address Frontex Data Protection Officer at dataprotectionoffice@frontex.europa.eu.

There is neither automated decision-making nor profiling related to the processing of personal data as regards the Transparency Register.

Recourse

You may address the controller at the above-mentioned functional mailbox at any time. You can also contact the Frontex Data Protection Officer at the following email address:

dataprotectionoffice@frontex.europa.eu.

Data subjects can at any time have recourse to the European Data Protection Supervisor (<http://www.edps.europa.eu>; email: edps@edps.europa.eu).

The record of processing activity on personal data as regards Frontex's Transparency has been submitted to the Data Protection Officer at Frontex and is publicly available on the Agency's website.