



HIELKE HIJMANS
HEAD OF UNIT

Ms Aris KOLIMATSI

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Brussels, 18 February 2014

HH/ABU/EJT/mk/D(2014)0427 C 2014-0122

Please use edps@edps.europa.eu for all correspondence

Subject: Your request for access to documents of 28 January 2014 (our ref. 2014-0122)

Dear Mr Kolimatsis,

I refer to your access to documents request which was registered at the EDPS on 28 January 2014.

The request concerns EDPS interventions in two Court cases, and it consists of three parts.

As regards the documents held by the EDPS which needed further examination, one document originated from third parties. We have consulted the body concerned in accordance with Article 4(4) of Regulation 1049/2001. This was done with a view to assessing whether any of the exceptions in Article 4(1) or Article 4(2) would be applicable.

Your **request number 1** concerns *“The invitations, if any, by EU Courts to the EDPS to intervene in legal actions before them up to 23/01/2014”*.

We have identified two documents falling under the scope of this request: 1) an invitation from the Civil Service Tribunal to intervene in the case F-46/09 “V. v European Parliament” 2) an invitation from the European Court of Justice to participate in the hearing of joined preliminary references C-293/12 and C-594/12 “Digital Rights Ireland and others”.

Following consultation of the third party in accordance with Article 4(4) of Regulation (EC) 1049/2001, we are glad to inform you that we have decided to grant partial access to the first invitation mentioned – to intervene in case F-46/09 - which you can find as Annex 1. Concerning the second invitation – to intervene in the hearing in joined cases C-293/12 and C-594/12 - we regret to inform you that we have decided to refuse access. We consider this document falls within the exception of Article 4(2) second indent of the Regulation 1049/2001, as it concerns an on-going court case and its disclosure would undermine the protection of court proceedings and legal advice.

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Your **request number 2** concerns *"The documents with the EDPS intervention in the case F-46/09 V v European Parliament"*

We have identified two documents concerning this request: 1) EDPS statement in intervention before the Civil Service Tribunal in the referred case F-46/09 and 2) EDPS pleadings at the hearing of 8 March 2011.

We are pleased to inform you that we have decided to grant partial access to the EDPS statement in intervention in case F-46/09, which you can find in Annex 2.

The EDPS pleadings at the hearing of the case can be found in our website: <https://secure.edps.europa.eu/EDPSWEB/edps/site/mySite/Court>

Your **request number 3** concerns *"The documents with the EDPS intervention in the case of Bavarian Lager, in both the General Court and the Court of Justice"*.

We have identified three documents falling under the scope of this request: 1) the EDPS pleadings at the hearing of the Court of First Instance of 13 September 2006 in case T-194/04 "The Bavarian Lager Company v Commission of the European Communities" 2) the EDPS response to the appeal against the judgement of the Court of First Instance in Case T-194/04 (case C-28/08P "Commission v Bavarian Lager") and 3) the EDPS pleadings at the hearing of the European Court of Justice of 16 June 2009 in case C-28/08P.

We are glad to inform you that we have decided to grant partial access to the EDPS response to the appeal against the judgement of the Court of First Instance in Case T-194/04, which you can find as Annex 3.

The EDPS pleadings at the hearing of the case before the Court of First Instance in case T-194/04 and before the European Court of Justice in case C-28/08P can be found in our website: <https://secure.edps.europa.eu/EDPSWEB/edps/site/mySite/Court>

Pursuant to articles 4(6) and 4(2)(b) of Regulation 1049/2001, personal data have been redacted from the documents.

Please note that, pursuant to Article 7(2) of Regulation (EC) No 45/2001, you may make a confirmatory application asking the EDPS to reconsider his position as regards the total or partial refusal of your request. Such confirmatory application should be addressed within 15 working days upon receipt of this letter to the EDPS general e-mail: edps@edps.europa.eu.

Yours sincerely,

pp. 

Hielke HIJMANS