

To: Martin Braun - ask+request-12655-99412f53@asktheeu.org

Brussels, 17 March 2023

Subject: Your application for access to documents – Ref No 2023-07

Dear Mr Braun,

We refer to your e-mail dated 24/02/2023 in which you made a request for access to documents, which was registered on 27/02/2023. The deadline to reply is therefore 20/03/2023.

You requested access to: “*Meeting Minutes, 36th and 37th Plenary Meeting.*”

Assessment

We have identified 2 documents that fall within the scope of your request.

To facilitate our assessment and your consultation of the files, the titles of the files have been adequately numbered. We will refer to the numbers of each single file in our assessment below.

We have conducted the following assessment in light of Regulation 1049/2001 regarding public access to documents and the relevant case law of the Court of Justice of the European Union (CJEU):

Partial disclosure

Having examined the documents requested under the provisions of Regulation (EC) No 1049/2001 regarding public access to documents, alongside the scope of your request, I have come to the conclusion that full disclosure of the documents mentioned below cannot be granted, since their full disclosure is prevented by the following exceptions to the right of access laid down in Article 4 of Regulation 1049/2001:

1. Exception 4(1)(a), 3rd indent (“International relations”). Disclosure of the documents would reveal the positions taken by the EDPB and/or other parties in international discussions, which would undermine the protection of international relations. We are therefore disclosing a version of these documents where this information has been redacted.

This exception applies to the following documents:

Documents: 1, 2

2. Exception 4(2), 3rd indent (“protection of inspections, investigations and audits”).

The documents you seek to obtain refers to ongoing procedures being led by members of the EDPB, which are not intended to be made public at this stage. The documents contain sensitive information, such as details of envisaged interactions between the national supervisory authorities and data controllers. Therefore, disclosure of such information would seriously undermine the protection of the purpose and result of the investigations. We are therefore disclosing a version of these documents where this information has been redacted.

This exception applies to the following documents:

Documents: 1, 2

3. Exception 4(3), 2nd paragraph. (“disclosure would seriously undermine the institution’s decision-making process”). The documents which you seek to obtain contains discussions, views and/or opinions of the EDPB members and/or of its Secretariat concerning decisions that have already been taken. Notwithstanding the fact that decisions regarding these documents have already been taken, its disclosure would seriously undermine the decision-making process of the EDPB as it would curtail the Members “space to think”, as it would prevent them from freely submitting their uncensored views on the matter, and freely discussing the issues at stake also in light of their national situations. The disclosure of these opinions will also have consequences in forthcoming discussions, since specific discussions/opinions/views of the EDPB are subject to updates and revisions and can thus be reopened at any time. Moreover, rapporteurs were redacted in order to avoid unnecessary pressure from external parties regarding the discussions and guidance provided. Rapporteurs should be able to discuss the matters free from external pressure and to freely provide their views and feedback on the matter. We are therefore disclosing a version of these documents where this information has been redacted.

This exception applies to the following documents:

- Documents: 1, 2

The exceptions laid down in Articles 4 (2) and 4(3) of Regulation 1049/2001 apply unless there is an overriding public interest in disclosure of the documents. We have not been able to identify such an interest.

Disclaimer

You may reuse the documents requested free of charge for non-commercial and commercial purposes provided that the source is acknowledged and that you do not distort the original meaning

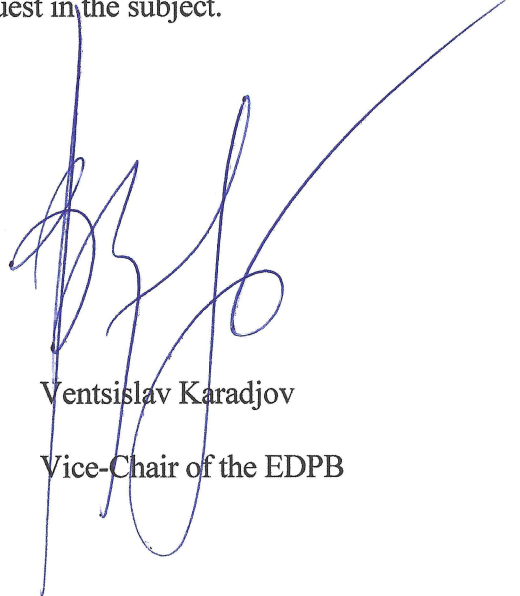
or message of the document/documents. Please note that neither the EDPB, nor its Secretariat assume liability stemming from the reuse.

Means of redress

In accordance with Article 7(2) of Regulation 1049/2001, you are entitled to make a confirmatory application requesting the EDPB to review this position.

Such a confirmatory application should be addressed within 15 working days upon receipt of this letter to the following email address: edpb@edpb.europa.eu. Please make reference to the case number of your request in the subject.

Yours sincerely,



Ventsislav Karadjov

Vice-Chair of the EDPB