

To: Heiko Roth ask+request-10514-fcbef7ba@asktheeu.org

Brussels, 02 March 2022

Subject: Your application for access to documents – Ref No 2022/06

Dear Mr. Roth,

We refer to your email dated 13/01/2022, in which you make a request for access to documents. On 17/01/2022 we requested clarification regarding the documents you were seeking access to. After receiving such clarification, your request was registered on 19/01/2022 under reference number 2022/06.

In accordance with article 7(8) of Regulation 1049/2001, a 15-working day extension of the initial deadline was submitted to you on 09/02/2022. Thus, the final deadline for replying to the initial request is 02/03/2022.

You requested access to documents containing the following information related to “EDPB task force” mentioned in the announcement by the NGO NOYB on <https://noyb.eu/en/austrian-dsb-eu-us-data-transfers-google-analytics-illegal>:

“(1) All EDPB documents indicating which data protection supervisory authorities are organized in this "task force". Personal data can of course be blacked out.

“(2) All legal opinions available to the EDPB regarding the interpretation of Articles 44-49 of the GDPR issued by the EDPB and/or another data protection supervisory authority in the context of this task force, regardless of the specific context (e.g., data processing services, service providers, countries). Personal data can of course be blacked out.”

Assessment

We have identified 30 documents falling fully or partially 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). Please note that the assessment has been carried out only with regard to the documents or parts thereof falling within the scope of your request.

Having examined document requested under the provisions of Regulation (EC) No 1049/2001 regarding public access to documents, alongside the scope of your request, **we have come to the conclusion that the requested documents cannot be disclosed**, they either fall partially out of scope of your request and/or their disclosure is prevented by the following exceptions to the right of access laid down in Article 4 of Regulation 1049/2001, namely:

Documents falling partially out of scope of the request:

Documents: 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30.

Applicable exceptions:

1.- Exception 4(1)(b) (“Privacy and integrity of the individual”). The documents to which you request access contain personal data, in particular names and contact details of data subjects, as well as other personal information. Pursuant to Article 4(1)(b) of Regulation (EC) No 1049/2001, access to a document has to be refused if its disclosure would undermine the protection of privacy and the integrity of the individual, in particular in accordance with EU legislation regarding the protection of personal data. The applicable legislation in this field is 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, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC. When access is requested to documents containing personal data, Regulation 2018/1725 becomes fully applicable. According to Article 9(1)(b) of this Regulation, personal data shall only be transferred to recipients if they establish the necessity of having the data transferred to them for a specific purpose in the public interest and the controller considers it proportionate. We consider that, with the information available, the necessity of disclosing the aforementioned personal data to you has not been established and/or that it cannot be assumed that such disclosure would not prejudice the legitimate rights of the persons concerned.

This exception applies to the following documents:

Documents: 1, 2, 4, 5, 6, 8, 9, 10, 12, 13, 14, 15, 18, 22, 26, 30.

2.- Exception 4.2.1st indent (“commercial interests of a natural or legal person”) in connection with exception 4.2.3rd indent (“purpose of investigations”). The documents you seek to obtain contain references to ongoing or closed investigations by national supervisory authorities, as well as to information obtained and discussions held in the course of an investigation, which are not meant to be published at this stage. Disclosure of that information would undermine the purpose and result of such investigations, and also of future investigations carried out by the EDPB members. Furthermore, the documents to which you request access contain information regarding specific legal persons. Disclosure of such information, where it is not foreseen for public disclosure, would seriously undermine the commercial interests of the natural persons concerned. Therefore, the documents requested cannot be provided. These exceptions apply to all the documents partially or fully within the scope of the request.

Please note that the application of the exceptions under Article 4 (2) 1st and 3rd indents leads to the full non-disclosure of documents also covered by the exception under Article 4 (1) (b). The application of Article 4 (1) (b) alone would have led to a partial disclosure of those documents (redacting all the personal data).

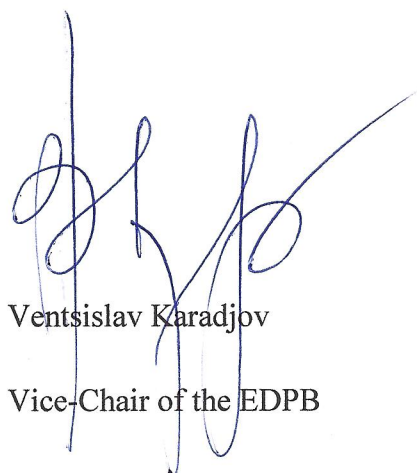
We have considered whether partial access could be granted to the documents requested. However, the documents are either entirely covered by the exceptions, or the expungement of the information falling under the exceptions is so significant that it renders the document irrelevant, or the remaining information does not fall within the scope of the request, which is why the documents are not provided.

The exceptions laid down in Article 4(2) of Regulation 1049/2001 apply unless there is an overriding public interest in disclosure of the information. We have not been able to identify such an interest. For these reasons, access to these documents is denied.

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 faithfully,



Ventsislav Karadjov

Vice-Chair of the EDPB