

To: Heiko Roth - ask+request-10729-79d58f75@asktheeu.org ; ask+request-10730-74fb8ec2@asktheeu.org

Brussels, 20 July 2022

Subject: Your application for access to documents – Ref No 2022-47

Dear Mr. Roth,

We refer to your e-mails dated 15/02/2022 and 16/02/2022 in which you make a request for access to documents. As you made a large number of requests during a short period, you were informed by email on 17 February 2022, that these requests would be dealt with consecutively, in the order received (as you have not indicated any other preference), as the EDPB Secretariat does not have the resources to handle all of your requests at the same time (also taking into account other requests for access to documents submitted by other applicants), within the legal deadlines foreseen in Regulation 1049/2001.

Both of these requests were registered as one single request on 04/07/2022 under reference number 2022-47. The deadline to reply is therefore 26/07/2022.

You have requested access to (part 1 of your request):

“1) Context:

My request is for the following press release: https://edpb.europa.eu/news/news/2022/launch-coordinated-enforcement-use-cloud-public-sector_en

2) Request:

a) Information, embodied in particular in documents such as sample questionnaires or sampling parameters, which provide information on how contact and exchange is or will be made with the 'public' bodies mentioned in the press release as part of the coordinated audit on the part of the BfDI.

b) Information, in particular embodied in documents, which provide information about when exactly the audit mentioned in the press release was or will be started.”

and (part 2 of your request):

"1) Context:

My request is for the following press releases (in short: "PR1", "PR2"):

PR1 by EDPB: https://edpb.europa.eu/news/news/2022/launch-coordinated-enforcement-use-cloud-public-sector_en

PR2 by Bavarian supervisory authority in Germany: https://www.datenschutz-bayern.de/presse/20220215_Cloud-Dienste.html

2) Requests:

(a) information, embodied in particular in documents, indicating which of the European regulators are meant in both PR that have joined the joint coordinated review of cloud services in the public sector.

(b) information, embodied in particular in documents, indicating How the "75" public bodies mentioned in PR2 were selected and which public bodies they are in detail (name of the public bodies)."

Assessment

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

In your application, you are also requesting documents specifically regarding the Federal German Supervisory Authority SA), as well as the Bavarian SA. Please note that the actual implementation of the Coordinated Enforcement Framework action at national level is the responsibility of each participating SA. As such, the EDPB does not hold documents specifically regarding how the public bodies were selected by the participating SAs, nor which they are in detail, nor the modalities for the individual contacts between the participating SAs and the respective public bodies.

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).

Full non disclosure

Having examined the 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 disclosure of the document cannot be granted, due to the application of the following exception to the right of access laid down in Article 4 of the Regulation 1049/2001:

Exception Article 4 (2) 3rd indent ("purpose of inspections, investigations and audits"): The document you seek to obtain contains a questionnaire template to be used by participating SAs in the context of the coordinated enforcement action, which is currently ongoing and is not intended to be made public at this time. The document also contains further details on the process, such as the timeline, and general guidance on the identification of the public bodies as addressees of the

coordinated enforcement framework action. Disclosure of this document would undermine the purpose and result of such actions at the national level. For this reason, disclosure of this document is denied.

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.

This exception applies to the following document:

Document: 1

Full disclosure

The following document is available on the EDPB website and can be viewed via the link mentioned below. There is a list at the end of the EDPB press release of all the SAs which have communicated the launching of an action in the context of this coordinated enforcement framework and to their respective press releases.

Document 2: https://edpb.europa.eu/news/news/2022/launch-coordinated-enforcement-use-cloud-public-sector_en

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Means of redress

In accordance with Article 7(2) of Regulation 1049/2001, you are entitled to make a confirmatory application requesting the European Data Protection Board 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

Secretariat of the European Data Protection Board

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