



EUROPEAN DATA PROTECTION SUPERVISOR

LEONARDO CERVERA NAVAS  
SECRETARY GENERAL

Florian Allers  
by e-mail only: [ask+request-14048-545f31a9@asktheeu.org](mailto:ask+request-14048-545f31a9@asktheeu.org)

Brussels, 28 February 2024  
SPR/LP/tt/vd D(2024) 0517 C 2024-0064  
Please use [edps@edps.europa.eu](mailto:edps@edps.europa.eu) for all correspondence

**Subject: Your request for access to documents under Regulation (EC) 1049/2001<sup>1</sup>**

Dear Mr Allers,

On 11.01.2024, you sent an Access to Documents (“ATD”) request to the European Data Protection Supervisor (“EDPS”) based on Regulation (EC) No 1049/2001. On the next day, we sent you an acknowledgement of receipt for your request also mentioning the deadline in accordance with Article 7(1) of Regulation (EC) 1049/2001.

Your request for access to documents concerns “*all documents that assess the need to establish a post of a Secretary General in an EU body of the size of the EDPS and all documents in which the Supervisor explains why he saw the need to establish this post in his organisation, hiring around 100 people*”.

By letter of 02.02.2024, we informed you that the EDPS has identified 4 documents<sup>2</sup> falling within the scope of your request. You have been granted full access to all documents falling within the scope of your request, with the exception of the personal data of the staff involved in the correspondence, in accordance with Article 4(1)(b) of Regulation (EC) 1049/2001.

On 09.02.2024, you submitted a confirmatory application, filing also a new ATD request “*access to the vacancy notice for the position of the Secretary General*”. On 12.02.2024, we sent you an acknowledgement of receipt for your request also mentioning the deadline in accordance with Article 8(2) of Regulation (EC) 1049/2001.

The EDPS has re-examined your request and carried out a new assessment of the documents falling within the scope, and the part(s) of the document to which you were not granted access in the initial response by the EDPS.

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<sup>1</sup> Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents OJ L145/43

<sup>2</sup> COO.6515.100.4.463995 (already public), COO.6515.100.3.508438, COO.6515.100.3.508437 and COO.6515.100.2.508438.

Following a new search of our database of any documents that would fall within the scope of your request, the EDPS has concluded that there is one additional document to those already sent to you in the initial response, that is connected to the documents within the scope of your original request. In particular, in your confirmatory application you refer to the vacancy notice for the position of Secretary General not being publicly available. Based on this mention, the EDPS has identified one further document as falling within the scope of your application:

	DOC ID	DATE	NAME	SUBJECT
1	COO.6515.100.4.508437	22.02.2024	Vacancy Notice	Vacancy Notice

The EDPS has examined specifically this document in order to assess whether disclosure was possible. Our assessment concluded that it may be disclosed as it is not covered by any of the exceptions of Article 4(1)(a), (2) and (3) of Regulation (EC) No 1049/2001.

The EDPS would like to inform you that you have been granted full access to the document falling within the scope of your request, with the exception of the personal data of the staff involved, in accordance with Article 4(1)(b) of Regulation (EC) 1049/2001.

Concerning the documents to which you were granted partial access in the initial response to your public access to documents request, the EDPS has assessed whether further disclosure is possible. Our assessment concluded that the personal data of the staff involved in the correspondence cannot be disclosed, in accordance with Article 4(1)(b) of Regulation (EC) 1049/2001. In particular, the EDPS carried out an assessment of the necessity and proportionality of the transfer of personal data in the light of your request, and concluded that no justification for disclosure exists. We note that the necessity of a transfer of personal data must be demonstrated by express and legitimate justifications or convincing arguments<sup>3</sup>, and be set off against less invasive measures<sup>4</sup>. We have also carefully analysed the arguments you raise in your letter, and we regret to inform you that you have not demonstrated such legitimate justifications for disclosure of the personal data of the staff involved in the documents you requested.

## Remedies

Please note that under Article 8(1) of Regulation (EC) No 1049/2001 you have the right, under certain conditions, to lodge a complaint with the European Ombudsman or to initiate proceedings before the Court of Justice of the European Union against the EDPS pursuant to Article 228 or 263 of the Treaty on the Functioning of the European Union.

Yours sincerely,

Leonardo CERVERA NAVAS

Annex: 1 document

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<sup>3</sup> Judgment of the Court of Justice of 29 June 2010 in case C-28/08 P, Commission v Bavarian Lager

<sup>4</sup> Judgment of the General Court of 23 November 2011 in case T-82/09, Dennekamp v Parliament

## **Data Protection Notice**

*According to Articles 15 and 16 of Regulation (EU) 2018/1725 (the Regulation) 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, we are processing your personal data, where proportionate and necessary, for the purpose of answering your request. The legal base for this processing operation is Regulation (EC) 1049/2001 and Article 52(4) of the Regulation (EU) 2018/1725. Subject to applicable rules under EU legislation, the personal data relating to you, as provided in your request as well as personal data that might be collected while processing your request, are used solely for the purpose of replying to your request. EDPS staff members dealing with the request will have access to the case file containing your personal data on a need-to-know basis. All access to case files is logged. Your personal data are not disclosed outside the EDPS. Your personal data will be stored electronically for a maximum of ten years after the closure of the case, or as long as the EDPS is under a legal obligation to do so. You have the right to access your personal data held by the EDPS and to relevant information concerning how we use it. You have the right to rectify your personal data. Under certain conditions, you have the right to ask that we delete your personal data or restrict its use. We will consider your request, take a decision and communicate it to you. For more information, please see Articles 14 to 21, 23 and 24 of the Regulation. Please note that in some cases restrictions under Article 25 of the Regulation may apply. Any request to exercise your rights should be addressed to the EDPS at [edps@edps.europa.eu](mailto:edps@edps.europa.eu). You may contact the data protection officer of the EDPS ([DPO@edps.europa.eu](mailto:DPO@edps.europa.eu)), if you have any remarks or complaints regarding the way we process your personal data. You have the right to lodge a complaint with the EDPS, as supervisory authority. Any such request should be addressed to the EDPS at [edps@edps.europa.eu](mailto:edps@edps.europa.eu). You can reach the EDPS in the following ways: E-mail: [edps@edps.europa.eu](mailto:edps@edps.europa.eu); EDPS postal address: European Data Protection Supervisor, Rue Wiertz 60, B-1047 Brussels, Belgium. For more information, please refer to the extended version of the data protection notice available on the EDPS website: [https://edps.europa.eu/data-protection/our-work/publications/other-documents/requests-access-documents\\_en](https://edps.europa.eu/data-protection/our-work/publications/other-documents/requests-access-documents_en).*