



Sophie LOUVEAUX
HEAD OF UNIT

Mr Kurt Weiss
e-mail: 'ask+request-459-fda4f8a3@asktheeu.org'

Brussels, 11 June 2013
SLx/ABu/et/D(2013)1209 C 2013-0489

Subject: Your requests for access to documents of 14 May 2013 (our ref. 2013-0489)

Dear Mr Weiss,

I refer to our letter of 4 June 2013 in which we informed you that, as regards the letter from the Fundamental Rights Agency dated 18 December 2008, we consulted FRA in accordance with Article 4(4) of Regulation (EC) No 1049/2001 with a view to assess whether any of the exceptions in Article 4(1) or (2) would be applicable.

Following this consultation, we have decided to refuse access to the letter from the Fundamental Rights Agency dated 18 December 2008 (ref. 2008-0643 A-08). The refusal is based on Article 4(1)(b) of Regulation (EC) No 1049/2001 in conjunction with Article 8(b) of Regulation (EC) No 45/2001 which governs the processing of personal data by Union institutions and bodies, including the EDPS. Article 4(1)(b) requires that any undermining of privacy and integrity of the individual must always be examined and assessed in conformity with the legislation of the Union concerning the protection of personal data, and in particular with the Regulation No 45/2001¹. Pursuant to Article 8(b) of Regulation (EC) No 45/2001, personal data may only be transferred if the recipient establishes the necessity of having the data transferred and if there is no reason to assume that the data subject's legitimate interests might be prejudiced. We have concluded that these cumulative conditions are not fulfilled in the present case.

Should you wish to request access to the personal data included in the document in question, please provide an express and legitimate justification or convincing argument to demonstrate the necessity for those personal data to be disclosed.

¹ See Court of Justice judgment of 29 June 2010 in Case C-28/08 P *Bavarian Lager*, available at: <http://curia.europa.eu/>

Please note that pursuant to Article 7(2) of Regulation (EC) No 1049/2001, you may make a confirmatory application asking the EDPS to reconsider his position as regards the total or partial refusal of your request. Such a 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,

A handwritten signature in dark ink, appearing to read 'S. Louveaux', is positioned above the printed name.

Sophie LOUVEAUX