

Patrick KY
Executive Director

Cologne,

Andrea Schlapbach
Sent by email only:
ask+request-7424-61500413@asktheeu.org

Subject: Your confirmatory application – Sailplane occurrence data

Rereference: Your e-mail of 22 November 2019

Dear Mr Schlapbach,

Thank you for your e-mail dated 22 November 2019, by which you disagree with the European Union Aviation Safety Agency's (EASA) decision of 21 November 2019 to refuse access to documents related to the above subject matter.

Your initial application was denied by EASA on the basis that access rules to the European Central Repository (ECR) of Regulation (EU) No 376/2014¹ are stricter than those of Regulation (EC) 1049/2001². Under these provisions, EASA considered that it is not in the position to grant access to detailed occurrence data, as this right is reserved for the national point of contact of the Member State where the requester is established.

In your e-mail dated 22 November 2019, you note that you have already received data from the ECR from Switzerland's Federal Office of Civil Aviation (FOCA) in October 2019. Furthermore you highlight that you have the interest to understand the complete and consistent data EASA has based its analysis and conclusions from.

With regard to EASA's Occurrence Database, it should be highlighted that the occurrences stored in the EASA Occurrence Database are shared with the ECR, therefore the ECR data should include this data. As already explained to you in our initial response, the distribution of data contained in the ECR is only reserved for the national contact point of the Member State where the requester is established. Furthermore the data stored in the ECR should only be used for the purpose for which it has been collected.³

¹ Regulation (EU) No 376/2014 of the European Parliament and of the Council of 3 April 2014 on the reporting, analysis and follow-up of occurrences in civil aviation, amending Regulation (EU) No 996/2010 of the European Parliament and of the Council and repealing Directive 2003/42/EC of the European Parliament and of the Council and Commission Regulations (EC) No 1321/2007 and (EC) No 1330/2007 (OJ L 122, 24.4.2014, p. 18-43)

² Regulation (EC) No 1049/2001 regarding public access to European Parliament, Council and Commission documents (OJ L 145 of 31 May 2001, p. 43).

³ Article 10, 11 and 15 of Regulation (EU) No 376/2014 of the European Parliament and of the Council of 3 April 2014 on the reporting, analysis and follow-up of occurrences in civil aviation, amending Regulation (EU) No

Therefore we kindly suggest that you contact again your national point of contact to ensure that the data you received includes data from the EASA Occurrence Database.

In regards to inconsistencies between raw data numbers from the ECR and information published in the EASA Annual Safety Review (ASR) that you mention in your e-mail, such inconsistency can be the result of duplications in the system, as each event can be reported by various reporters. In addition the data that is presented in the ASR is the result of a collaborative analysis prepared by experts and reflects the expert judgement when categorising the events.

This analysis performed by EASA is considered to be of sensitive nature and its disclosure could lead to EASA receiving external pressure to attempt to influence EASA's analysis of these events.

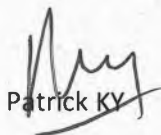
The disclosure of these internal analysis and conclusions would undermine EASA's independence of the decision making and would create undue external interferences that could influence the results. Therefore, since there is no overriding public interest in disclosure, EASA is not in position to grant your request, in accordance with Article 4(3) of Regulation (EC) No 1049/2001.

Nevertheless, if you are interested in further information on the processing of the data published in the ASR, we kindly invite you to contact safety.analysis@easa.europa.eu.

I hope these clarifications are helpful.

If you wish to appeal against this decision, the legal remedies open to you are either to lodge a complaint with the European Ombudsman or to institute court proceedings against EASA, under Article 228 or 263 of the Treaty on the Functioning of the EU (TFEU), respectively.

Yours sincerely,


Patrick KY

996/2010 of the European Parliament and of the Council and repealing Directive 2003/42/EC of the European Parliament and of the Council and Commission Regulations (EC) No 1321/2007 and (EC) No 1330/2007 (OJ L 122, 24.4.2014, p. 18-43)

