

Fausto Parente
Executive Director

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EIOPA REGULAR USE

EIOPA-18/731
23 October 2018

Members of EIOPA's Working Groups (Committees, Task Forces, Panels)

Dear Mr Vassalos,

Thank you for your confirmatory application of 3 October 2018 under Article 7(2) of Regulation (EC) No 1049/2001 regarding public access to documents. With it, you requested a review of the refusal of EIOPA's Coordinator for public access of 21 August 2018 with regard to your initial request on the above-mentioned subject.

CONFIRMATORY APPLICATION

I regret to inform you that this confirmatory application was initiated after the deadline under Article 7(2) of Regulation (EC) No 1049/2001. This Article provides that in the event of a total or partial refusal, an applicant may within 15 working days from receiving the institution's reply make a confirmatory application asking the institution to reconsider its position. Within this public access process, EIOPA's reply to your initial request was sent and received on 21 August 2018 (as evidenced by the AsktheEU web tool, which you use to communicate with EIOPA), while the confirmatory application was filed on 3 October 2018 (i.e. 16 working days past the deadline under Article 7(2) of Regulation (EC) No 1049/2001).

Consequently, EIOPA is not in a position to handle your confirmatory application.

ADDITIONAL INFORMATION

Nevertheless, for good administration purposes, I undertook a provisional assessment of your original application against the rules of Regulation (EC) No 1049/2001. In this respect, I regret to inform you that, for the reasons set out below, access to the sought information would have not been given even if the confirmatory application had been sent in time.

Disclosure of the names of the members of EIOPA's Working Groups (Committees, Task Forces and Panels) would constitute disclosing personal data under Regulation (EC) No 45/2001.

Regulation (EC) No 45/2001 provides that when the personal data collected is to be used for a different purpose, including disclosure to the public, a balance needs to be established between the public interest in having access to such data and the legitimate right of individuals to protect their personal data¹.

Having carefully considering all the principles related to this request, I concluded that the conduct of your PhD studies does not justify public disclosure of these data in the public interest under Article 5(a) of Regulation (EC) No 45/2001. Moreover, the information provided does not evidence a necessity of the transfer of the personal data in question in the meaning of Article 8(b) of Regulation 45/2001 cannot be established.

I therefore have to inform you that access to any such information would have been denied pursuant to Article 4(1)(b) of Regulation (EC) No 1049/2001 even if your confirmatory application had been submitted within the timelines.

With regard to the institutional composition of EIOPA's Working Groups, I would like to inform you that as a rule they are open for participation by staff members of any national competent authority (NCA) whose Head is a member of EIOPA's Board of supervisors (BoS). Please find excerpts of the rules of EIOPA's Working Group on their respective composition, annexed hereto.

This membership approach ensures the European context of EIOPA's decision-making process.

With this additional information, I am confident you received the required information on the membership of EIOPA's Working Groups.

Yours faithfully,


Fausto Parente

¹ Article 8 of Regulation (EC) No 45/2001.

ANNEX

EXCERPT OF THE RULES OF EIOPA'S WORKING GROUP ON THEIR RESPECTIVE COMPOSITION

1. Rules of procedure for EIOPA's Working Groups

"[...]

Article 7 – Composition

General Principles

7.1 A Working Group shall be composed of its Chair, Vice-Chair, members and of at least one responsible EIOPA Staff Member. Observers and experts may be invited, where appropriate.

Members

7.2 Members of Working Groups shall be staff members of the EU/EEA² National Competent Authorities, represented in the Board of Supervisors.

7.3 The membership in Working Groups shall be limited in principle to one or two persons per National Competent Authority, except for particular reasons to be agreed with the Executive Director.

7.4 Members of Working Groups shall be nominated by their National Competent Authority. The expressed nomination is important in view of the duties and rights of the members as further described under Article 8.

7.5 The list of members of the Working Groups shall be updated on a regular basis and at least once a year.

7.6 For the Review Panel, each National Competent Authority shall appoint one high-level representative as a member.

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2. Rules of procedure for EIOPA's Steering Committees and Project Groups

"CHAPTER II

STEERING COMMITTEE

Article 3

Establishment and composition

1. Steering Committees shall be established by the Board of Supervisors, which shall approve their mandates and composition.

2. The composition of the Steering Committee shall ensure a fair and balanced representation of the different national supervisory systems and cultures in Europe.

² Iceland, Liechtenstein and Norway.

3. Each Steering Committee shall be composed of 10 to 12 elected members, plus one EIOPA manager, as defined in Article 1. Out of the elected Steering Committee members, there shall be only one member per Member State.

[...]

Article 8

Working arrangements

[...]

5. Upon Participants'³ request, they shall be included in any Steering Committee's meeting and shall have all the rights and duties of Steering Committee members laid down in these Rules of Procedure.

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³ 'Participants' means all Voting Members, Permanent Representatives and their Alternates, or senior representatives which are not elected as members of a Steering Committee but participate in Steering Committee meetings if they requested so (Article 1(b) of the Rules of procedure).