

CHIEF EXECUTIVE

Mr Chris GAFFNEY
NHI Disclosure
13 Garden Drive
Swords Co Dublin
Ireland

SENT BY EMAIL ONLY

EDA202103126/CSD/LEG

24 March 2021

Subject: Decision pursuant to Article 7 of the Chief Executive Decision No.19/09 of 07/06/2019¹ adopting the EDA policy on public access to documents in accordance with the provisions of Regulation 1049/2001.²

Dear Mr Gaffney,

I refer to your email of 14 March 2021 in which you submit a confirmatory application, in accordance with Article 7(2) of Regulation (EC) No 1049/2001 regarding public access to European Parliament, Council and Commission documents (hereinafter "Regulation 1049/2001").

1. SCOPE OF YOUR REQUEST

In your initial application of 03 March 2021, registered on 04 March 2021 under reference number 2021/09/IN, you requested access to:

"All correspondence and notes from my letters to Jiri Sedivy CEO EDA and Josef Borrell Acting Head EDA. All correspondence regarding a possible UAP UFO threat to the European Union. All files on the United States UAP Task Force."

In its initial response sent on 10 March 2021, the European Defence Agency (hereinafter "the Agency"), informed you that it does not hold any documents on unidentified flying objects and/or unidentified aerial phenomena. You were also informed that EDA did not identify any correspondence or notes based on any letters addressed to the Chief Executive on this matter.

¹ <https://eda.europa.eu/info-hub/eda-documents/access-to-eda-documents>

² 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 (JO L 145 du 31.5.2001, p. 43-48).

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In your confirmatory application, you note that on: *“15th of February 2021, I sent via post documents to Josep Borrell and Jiří Šedivý at the European Defence Agency outlining my concerns that the United States Department of Defence take excursions into US airspace by unknown craft (UAPs) so serious that a task force has been set up to investigate these incidents. I did not receive a reply from the EDA nor was my correspondence returned to my home address therefore it is fair to assume that the EDA is in possession of my documents”.*

Based on the above, you request EDA to reconsider its position that the Agency has not identified any documents, correspondence or notes based on letters addressed to EDA’s Chief Executive Mr Jiří Šedivý and Head of Agency, Mr Josep Borrell.

Pursuant to Article 7(2) of EDA Decision No 19/09 of 07/06/2019, decisions on confirmatory applications are made by the EDA Chief Executive.

2. ASSESSMENT AND CONCLUSION UNDER REGULATION 1049/2001

When assessing a confirmatory application for access to documents submitted pursuant to Regulation 1049/2001, the Agency conducts a fresh review of the initial reply provided.

Let me first reassure that your letter addressed to the Agency Chief Executive and the Head of the Agency has indeed been received via normal postal service at the EDA premises but, due to COVID-19 sanitary restrictions currently in place in Belgium, EDA staff is working remotely from home presently and as a result the letter was not directly scanned and registered, as per usual practice. This is an unfortunate situation which I regret but which you will surely understand is not fully under our control, in light of the current sanitary constraints.

As a result, and fully in line with the information available at that time, the Agency wrote to you on 10/03/2021 mentioning that we did hold any documents on unidentified flying objects and/or unidentified aerial phenomena and that we did not identify any correspondence or notes based on any letters addressed to Jiří Šedivý, EDA’s Chief Executive on this matter.

In our review following your confirmatory application, we have again examined to which extent our position communicated to you on 10/03/2021 should be altered in light of the document – i.e. your letter - identified.

Following the confirmatory review, I can confirm that the Agency does not have any files or documents on unidentified flying objects and/or unidentified aerial phenomena falling under the scope of your initial application, nor does it hold any notes derived from or based on your letter addressed to the Agency.

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Consequently, I conclude that, pursuant to Article 4(3) §2 of Regulation 1049/2001 the decision that access cannot be granted to documents not in our possession was correct and is hereby upheld.

3. MEANS OF REDRESS

I would like to draw your attention to the means of redress that are available against this decision concerning public access to documents, that is, judicial proceedings brought before the Court of Justice of the European Union and complaints for maladministration filed with the European Ombudsman under the conditions specified in Articles 263 and 228 of the Treaty of the Functioning of the European Union respectively.

Yours sincerely,


Jiří Šedivý