

To: Johnny Ryan - [ask+request-10908-fb0283b1@asktheeu.org](mailto:ask+request-10908-fb0283b1@asktheeu.org)

Brussels, 5 May 2022

**Subject: Your application for access to documents – Ref No 2022-30**

Dear Mr. Ryan,

We refer to your message dated 28/03/2022 in which you made a request for access to documents. Following a written exchange and a phone call to clarify the scope of your request, it was registered on 11/04/2022 with the reference number 2022-30. The deadline to reply is therefore 05/05/2022.

You have requested access to *"records of how each EDPB Member voted (for, against, abstain, etc.) on each guideline, opinion, and decisions, and any other items that may have been voted upon by the board."*

Following the above-mentioned exchange, it was agreed to narrow down the scope of this specific request to votes on EDPB guidelines since May 2018.

#### **Assessment**

We have identified 3 documents in the scope of your request. Please note for the purposes of this request, and considering that you have requested records of how each EDPB member voted, we have only considered voting records with votes from the individual members to be in scope. Records with aggregated votes were therefore not considered to be in scope.

We have conducted the following assessment in light of Regulation 1049/2001 regarding public access to documents and the relevant case law of the Court of Justice of the European Union (CJEU):

#### **Full non-disclosure**

Having examined the documents requested under the provisions of Regulation (EC) No 1049/2001 regarding public access to documents, we have come to the conclusion that they cannot be disclosed, as their disclosure is prevented by the following exception to the right of access laid down in Article 4 of the Regulation 1049/2001:

**Article 4(3), 2nd paragraph.** The documents which you seek to obtain contain the individual votes of the EDPB members concerning the adoption of EDPB guidelines. Notwithstanding the fact that these decisions have already been taken, disclosure of these documents would seriously undermine the decision-making process of the EDPB as it would curtail the Members "space to

think”, as it would prevent them from freely submitting their uncensored views on the matter. This exception applies to all three documents in scope of this request.

We have considered whether partial access could be granted to the documents requested. However, the documents are entirely covered by the exception.

The exception laid down in Article 4(3) of Regulation 1049/2001 applies unless there is an overriding public interest in disclosure of the documents. We have not been able to identify such an interest. For these reasons, access to these documents is denied.

### **Means of redress**

In accordance with Article 7(2) of Regulation 1049/2001, you are entitled to make a confirmatory application requesting the European Data Protection Board to review this position.

Such a confirmatory application should be addressed within 15 working days upon receipt of this letter to the following email address: [edpb@edpb.europa.eu](mailto:edpb@edpb.europa.eu). Please make reference to the case number of your request in the subject.

Yours sincerely,



**Ventsislav Karadjov**

**Vice-Chair of the EDPB**