

To: Heiko Roth - ask+request-11042-29de479b@asktheeu.org

Brussels, 8 July 2022

Subject: Your application for access to documents – Ref No 2022-46

Dear Mr. Roth,

We refer to your email dated 19/04/2022 in which you make a request for access to documents. We have informed you by email on 22/06/2022 that due to an oversight, there had been a delay in registering your request. Your request was subsequently registered on 22/06/2022 with registration number 2022-46. The deadline to reply is therefore 13/07/2022.

You have requested access to documents containing the following information “*Naming of the current coordinators of the Expert Subgroups (actual list: https://edpb.europa.eu/system/files/2021-06/edpb_aar_2020_final_27.05.21.pdf, p. 91 et seq) according to Article 25 (3) Rules of Procedures EDPB (Version 8). Alternatively: for each Expert Subgroup, the name of the institution (EU supervisory authority) to which the coordinator belongs.*”

Assessment

We have identified 1 document that falls within the scope of your present request.

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).

1. Full non-disclosure

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

Secretariat of the European Data Protection Board

rue Wiertz, 60
1047 Brussels

1. Exception 4(1)(b) (“Privacy and integrity of the individual”). The document to which you request access contain personal data, in particular names and contact details of data subjects. Pursuant to Article 4(1)(b) of Regulation (EC) No 1049/2001, access to a document has to be refused if its disclosure would undermine the protection of privacy and the integrity of the individual, in particular in accordance with EU legislation regarding the protection of personal data. The applicable legislation in this field is Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC. When access is requested to documents containing personal data, Regulation 2018/1725 becomes fully applicable¹. According to Article 9(1)(b) of this Regulation, personal data shall only be transferred to recipients if they establish the necessity of having the data transferred to them for a specific purpose in the public interest and the controller considers it proportionate. We consider that, with the information available, the necessity of disclosing the aforementioned personal data to you has not been established and/or that it cannot be assumed that such disclosure would not prejudice the legitimate rights of the persons concerned.

2. Exception 4(3), 2nd paragraph. The document which you seek to obtain contains the identity of the supervisory authorities which are currently coordinators for the EDPB expert subgroups. In practice, coordinators are often part of the rapporteurs’ teams in the drafting of EDPB documents. Rapporteurs should be able to discuss the matters free from external pressure and to freely provide their views and feedback on the matter. Disclosing this information would therefore 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, and freely discussing the issues at stake.

Please note that the application of the exception under Article 4 (3) 2nd paragraph is the one leading to the full non-disclosure of documents also covered by the exception under Article 4 (1) (b). The application of Article 4 (1) (b) alone would have led to a partial disclosure of those documents (redacting all the personal data).

We have considered whether partial access could be granted to the documents requested. However, the documents or parts thereof falling within the scope of your request are either entirely covered by the exception(s), or the expungement of the information falling under the exception(s) is so significant that it renders the document irrelevant, which is why they are not provided.

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.

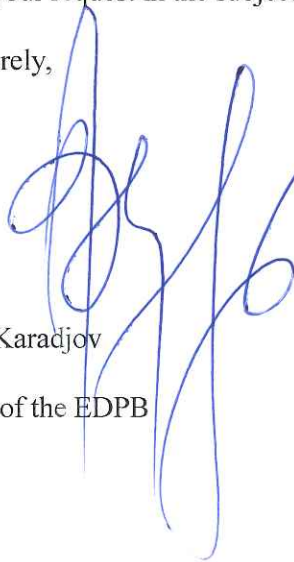
¹ Judgment of the Court of Justice of the European Union of 29 June 2010 in Case C-28/08 P, *Commission/The Bavarian Lager Co. Ltd*, ECR 2010 I-06055. This case concerns the previous Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data.

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. Please make reference to the case number of your request in the subject.

Yours sincerely,



Ventsislav Karadjov

Vice-Chair of the EDPB