



THOMAS ZERDICK
IT POLICY UNIT

Mr Alexander FANTA
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Brussels,
TZ/ALS/ / C 2020-0251
Please use edps@edps.europa.eu for all
correspondence

Subject: Your request for access to documents under Regulation (EC) 1049/2001

Dear Mr Fanta,

On 26 February 2020 you sent an access to documents request to the EDPS on the basis of Regulation (EC) 1049/2001, which was registered on the same day. On 12 March 2020, the EDPS informed you about the extension of the deadline in accordance with Article 7(3) of Regulation (EC) 1049/2001.

Your request concerns a list of all personal data breach notifications the EDPS received since 12 December 2018, including which EU institutions, bodies and agencies (EUIs) that reported the breach, the date, the type of breach and a brief summary in each case.

The EDPS has received 128 data breach notifications since 12 December 2018 and the EDPS holds a register where these notifications are listed. From these 128 cases, 28 of them are closed.

Open cases

Regarding access to the information about the 100 cases that are open, we regret to inform you that access is denied in line with Article 4(2) third indent of Regulation (EC) 1049/2001 relating to the protection of the purpose of inspections, investigations and audits. According to this provision, access should be refused if the disclosure of a document could possibly undermine the completion of inspections, investigations or audits.

In order for the EDPS's investigations to be effective and lead to the desired result as regards the correct application of Regulation (EU) 2018/1725, it is essential that confidentiality of such investigations in these cases are preserved. Disclosing any information and/or documents related to these ongoing investigations would unduly interfere with the procedure and may undermine the rights and interests of the entities concerned. Additionally, disclosure of the information could possibly undermine the completion of these investigations.

Closed cases

Regarding the 28 closed cases, we have consulted the EUIs that reported the breaches in accordance with Article 4(4) of Regulation (EC) 1049/2001.

We are pleased to inform you that access is granted to the information included in our register in line with your request with one exception. This concerns one of Europol's cases (notified on 11/12/2018), where they are of the opinion that partial access can be granted. Europol considers Article 4(1)(a) first indent applicable for parts of the description of the case, since disclosure of this information would undermine the protection of the public interest as regards public security, such as the proper fulfilment of Europol's tasks.

Please note that pursuant to Article 7(2) of Regulation 1049/2001, you may make a confirmatory application asking the EDPS to reconsider his position as regards to the partially refusal of your request. Such a confirmatory application should be addressed within 15 working days upon receipt of this letter to the EDPS general e-mail: edps@edps.europa.eu.

Yours sincerely,

[electronically signed]

Thomas ZERDICK, LL.M.
Head of IT Policy Unit

Data Protection Notice

According to Articles 15 and 16 of Regulation (EU) 2018/1725 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, please be aware that your personal data will be processed by the EDPS, where proportionate and necessary, for the purpose of answering your request. The legal base for this processing operation is Regulation (EC) 1049/2001 and Article 52(4) of the Regulation (EU) 2018/1725. Subject to applicable rules under EU legislation, the personal data relating to you, as provided in your request, are used solely for the purpose of replying to your request. EDPS staff members dealing with the request will have access to the case file containing your personal data on a need-to-know basis. Your personal data are not disclosed outside the EDPS. Your personal data will be stored electronically for a maximum of ten years after the closure of the case, or as long as the EDPS is under a legal obligation to do so. You have the right to access your personal data held by the EDPS and to obtain the rectification thereof, if necessary. Any such request should be addressed to the EDPS at edps@edps.europa.eu. You may contact the data protection officer of the EDPS (EDPS-DPO@edps.europa.eu), if you have any remarks or complaints regarding the way we process your personal data.