



EDPS
EUROPEAN DATA PROTECTION SUPERVISOR

GOVERNANCE AND INTERNAL COMPLIANCE UNIT

Monika Klammer
by email only: ask+request-14432-6cfac35a@asktheeu.org

Brussels, 15 March 2024
LP/tt/db D(2024) 1177 C 2024-0344
Please use edps@edps.europa.eu for all correspondence

Subject: Your request for access to documents under Regulation (EC) 1049/2001¹

Dear Ms Klammer,

On 01.04.2024, you sent an access to documents request to the European Data Protection Supervisor (“EDPS”) based on Regulation (EC) No 1049/2001. On the next day we sent you an acknowledgement of receipt for your request also mentioning the deadline in accordance with Article 7(1) of Regulation (EC) 1049/2001.

Your request for access to documents concerns:

- 1. Details regarding any existing cooperation agreements between the European Anti-Fraud Office (OLAF) and the Central Anticorruption Bureau (CBA) in Warsaw. This includes the date of conclusion and any pertinent terms or conditions that define the scope and nature of the collaboration.*
- 2. The full text of the cooperation agreement or the text of its proposal, if available. This would help in understanding the formal basis for any collaborative efforts and engagements between OLAF and CBA.*
- 3. Information concerning the exchange of data between OLAF and CBA, encompassing the mechanisms of exchange, frequency, and any protocols established to ensure the security and confidentiality of the exchanged information.*
- 4. Specifics on the types of personal data that have been exchanged between these entities. It is*

¹ 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 OJ L145/43

crucial to discern the categories of personal data involved to evaluate the compliance with data protection regulations and principles.

5. *Confirmation on whether any of the personal data exchanged includes information acquired by the CBA through the utilization of Pegasus software. Given the potential sensitivity and privacy implications of such data, understanding its inclusion in exchanges between OLAF and CBA is of significant interest.”.*

After careful assessment of your request, we regret to inform you that the EDPS does not hold any documents that would correspond to your request. Please note that in accordance with settled case law of the Court of Justice of the European Union, Regulation No 1049/2001 applies only to existing documents in the institution and that the EDPS is not under the obligation to create a document, which does not exist, even if that document is based on information already appearing in existing documents².

Please note that pursuant to Article 7(2) of Regulation (EC) No 1049/2001, you may submit a confirmatory application asking the EDPS to reconsider his position as regards the total or partial refusal of your request. Such a confirmatory application should be submitted within 15 working days upon receipt of this letter to the EDPS general e-mail: edps@edps.europa.eu.

Yours sincerely,

(E-Signed)

Luisa PALLA
Head of Unit

Data Protection Notice

According to Articles 15 and 16 of Regulation (EU) 2018/1725 (the Regulation) 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, we are processing your personal data, 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 as well as personal data that might be collected while processing 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. All access to case files is logged. 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 relevant information concerning how we use it. You have the right to rectify your personal data. Under certain conditions, you have the right to ask that we delete your personal data or restrict its use. We will consider your request, take a decision and communicate it to you. For more information, please see Articles 14 to 21, 23 and 24 of the Regulation. Please note that in some cases restrictions under Article 25 of the Regulation may apply. Any request to exercise your rights 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. You have the right to lodge a complaint with the EDPS, as supervisory authority. Any such request should be addressed to the EDPS at edps@edps.europa.eu. You can reach the EDPS in the following ways: E-mail: edps@edps.europa.eu; EDPS postal address: European Data Protection Supervisor, Rue Wiertz 60, B-1047 Brussels, Belgium. For more information, please refer to the extended version of the data protection notice available on the EDPS website: https://edps.europa.eu/data-protection/our-work/publications/other-documents/requests-access-documents_en.

² Judgment of the Court of 11 January 2017 in case C-491/15 P, Typke v Commission