



EUROPEAN DATA PROTECTION SUPERVISOR

Leonardo CERVERA NAVAS
Director

Mr Alexander BORG
by email only: [ask+request-10112-
fd35d2ac@asktheeu.org](mailto:ask+request-10112-fd35d2ac@asktheeu.org)

Brussels, 3 November 2021
LCN/SPR/TT/mch/D(2021)2273 C 2021-0963
Please use edps@edps.europa.eu for all
correspondence

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

Dear Mr Borg,

On 17.10.2020, you sent an access to documents request to the European Data Protection Supervisor (“EDPS”) on the basis of Regulation (EC) 1049/2001. Your request was registered on the next day, for which we sent you an acknowledgement of receipt on 25.10.2021 also mentioning the deadline in accordance with Article 7(1) of Regulation (EC) 1049/2001.

You request concerns documents, which contain the information relating to:

- 1. Whether the EDPS can validate/invalidate certain claims apparently made public by the press relating to plans to re-establish a new data-sharing plan between the US and the EU based on existing documents?*
- 2. What is the net cost in EUR in data breaches related to US surveillance efforts on European soil.*

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. In this regard, 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 documents¹.

Pursuant to Article 7(2) of Regulation No 1049/2001, you may make a confirmatory application asking the EDPS to reconsider his position as regards to the total or partial 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,



Leonardo CERMEBA NAVAS

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 (EU) 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.

¹ Judgment of the Court of 11 January 2017 in case C-491/15 P, Typke v Commission