

Info note



EDPB Plenary meeting, 12 February 2019

ITEM 5.2 – INFO NOTE – Access requests – Written state of play

I. Background

Some members asked for a state of play regarding the requests for access to documents received by the EDPB.

The principle of transparency of EU organs and institutions and the right for citizens to access their documents is laid down in Article 15 of the TFEU. As per Article 76 (2) GDPR, “*access to documents submitted to members of the Board, experts and representatives of third parties shall be governed by Regulation (EC) No 1049/2001 of the European Parliament and of the Council*”.

According to Art 32 of the Rules of Procedure of the EDPB, “*Access to documents submitted to members of the Board, experts and representatives of third parties shall be governed by Regulation (EC) No 1049/2001 of the European Parliament and of the Council*”.

All documents held by the EDPB (*i.e.* drafted by the EDPB or received by it) are therefore subject to the principles of Regulation 1049/2001.

After a revision of the RoP via written procedure closed on Friday 23 November, the initial application will be dealt with by one deputy chair, and the confirmatory application (internal review of the decision, see article 8 Regulation 1049/2001) will be handled by the chair of the EDPB.

II. Current state of play

Until 01/02/2019, the EDPB received 14 requests for access to documents.

-) 4 concern access to EDPB plenary’s minutes and/or agenda
-) three concern draft DPIA lists submitted by SAs to the EDPB under Article 64 GDPR, with one asking for the lists as amended by the SAs, the information on whether their decision was maintained or amended, and the comparative table used by the EDPB to draft the different opinions

-)] one concerns all minutes of subgroups and plenary, all infonotes (plenary and FoP) and all the relevant annexes to these documents
-)] one concerns the guidelines on territorial scope adopted in September 2018
-)] one concerns any document on (1) FATCA compatibility with the GDPR and (2) questionnaires on the OECD CRS
-)] one concerns the (1) name of the DPA submitting a request under 64.2 GDPR on interplay between GDPR and ePrivacy Directive and (2) a copy of the submission
-)] one concerns minutes and supporting documents of the Financial Matters Expert Subgroup discussed during EDPB's 2nd and 5th plenaries on (1) the outcomes of OECD CRS questionnaire and on (2) FATCA compatibility with the GDPR (following the request by the Association of Accidental Americans (AAA) and the EP resolution of the 5th of July on the adverse effects of FATCA on EU citizens)
-)] one concerns EDPB's opinion on the clinical trials Q&A, adopted following a request from the European Commission
-)] one concerns the public comments submitted to the EDPB on Annex 1 of the Guidelines 4/2018 on the accreditation of certification bodies under Article 43 of the General Data Protection Regulation (2016/679)

III. Discussion points

All documents submitted to the EDPB and all documents drafted in the context of its activities (e.g. minutes of subgroups) are subject to a possible access request. That does not mean that all documents will be disclosed since exceptions may apply (personal data protection, protection of investigations, protection of legal advice, protection of the decision-making process, etc.).

The Secretariat would like to collect the contacts of the case officer within each SA in order to contact them when needed.

Request to the Plenary:

-)] To take note of this information and state of play of the access requests
-)] Communicate to the Secretariat the contact details of their case officer in charge within the SAs