The European Data Protection Board (EDPB)’s refusal to give public access to the preparatory documents for its guidelines on international data transfers, its statement on such transfers and a related reply to a Member of the European Parliament

Case 201/2022/JK - Opened on 26/01/2022 - Recommendation on 29/03/2023 - Institution concerned European Data Protection Board

The complainant asked the European Data Protection Board (EDPB) to grant public access to all documents (including preparatory documents) concerning different EDPB statements and guidelines on international data transfers. The EDPB identified over 100 documents as falling under the request and granted full access to certain documents and parts others. In refusing access to the rest (the majority of documents), the EDPB invoked exceptions under the EU’s rules on public access to documents, arguing that disclosure could undermine ongoing decision-making processes, ongoing investigations and ongoing court proceedings.

Based on an inspection of the documents by her inquiry team, the Ombudsman was not convinced by the reasons put forward by the EDPB to refuse access. She thus proposed as a solution that the EDPB reassess the request and reconsider its decision to deny access.

The EDPB did not accept the solution proposal. The Ombudsman therefore concluded that how the EDPB dealt with the request constitutes maladministration, and made a recommendation that the EDPB reassess the request and reconsider its decision to deny
access.