



noyb – European Center for Digital Rights
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1140 Vienna
AUSTRIA

To:
Commissioner Didier Reynders
Rue de la Loi 200
1049 Bruxelles
BELGIUM

Vienna, 11th July 2023

**OPEN LETTER: Repeated false allegations of a “business model”
when citizens (legitimately and successfully) exercise EU Charter Rights**

Dear Commissioner Reynders,

Yesterday you have made public allegations that I and “non-profits” bring cases before the CJEU as a “business model” for the third time.¹ I previously assumed that you were not well-briefed, went off script or were otherwise subject to confusion. While I had to learn that some people like to focus on me as a person instead of legal arguments, it was unthinkable to me that the Justice Commissioner would ever engage in the spreading of such a petty falsehood about individual citizens and organisations.

If you were properly briefed, you would have been informed that I worked on these cases, and as chairman for *noyb*, entirely on a “pro bono” basis. Many members of my legal teams, as well as external advisors, in both CJEU cases also worked on a “pro bono” basis or on heavily discounted rates. Nobody “profited” from the litigation, but invested substantial time and resources. Not only that there was no financial gain, the financial risk of the “Schrems II” litigation was estimated to be about € 10 million. Given that Ireland continues to violate Article 47 of the Charter of Fundamental Rights and has not implemented any form of legal aid for administrative cases, I was personally at risk for these costs. In this respect I also note that the Commission has so far not acted on this violation of Article 47.

In a situation where you have repeated this highly disrespectful and false allegation now for a third time during a widely covered official press conference of the European Commission, I must assume that you will continue to spread such falsehoods. I must therefore formally request an official rectification and apology. I kindly ask you to apologise not to myself, but to the legal and non-profit community that works tirelessly to uphold the Charter when public bodies fail to do so.

¹ Your [interview with EURACTIV of 13th December.2022](#) and your comments before the LIBE committee in February 2023 have previously been brought to my attention by members of the public.

My request is not just motivated by the reputational damage that your comments have caused, but also because the suggestion that citizens who attempt to vindicate their rights do so in bad faith is completely unacceptable coming from the Commissioner who has been entrusted with upholding justice and fundamental rights in the EU. Such suggestions not only damage the reputation of your office and the Union but also legitimize similar agitation by politicians of various “illiberal democracies”. The deliberate spreading of falsehoods undermines the proper conduct between citizens and people in power in a democratic society and cannot be left uncommented.

Many of my colleagues in the legal and non-profit sector work very hard to ensure that the promises of the European Union are enforced and implemented in the practice of our citizens. It is absolutely normal that our work is not always welcomed and must also be subject to criticism. Many claims by citizens and non-profits may even be rejected by courts. But regardless of personal views and legal positions, it is unacceptable that a Justice Commissioner would publicly and repeatedly spread falsehoods as to the motive of citizens that (successfully) seek justice before our courts.

I was further surprised by your comment during the press conference that we have been in contact. In fact, the European Representation in Vienna invited me to a dinner with you, representatives of the EU Representation and two other experts on digital matters.

In stark contrast to a very in-depth meeting with your predecessor Věra Jourová after the first judgement on EU-US data transfers at the Berlaymont, you were not engaging in any substantive discussion on the issues of US surveillance or EU-US data transfers. As far as I can see, we have not had any relevant official contact with the Commission on this matter since then.

I would therefore kindly ask you to advise the relevant departments of the Commission to either engage in meaningful contact or refrain from incorrectly suggesting that the Commission would engage with stakeholders, when the Commission has clearly not shown any heightened interest in input that might have led to a more durable adequacy decision.

I hope to be able to settle this matter and await your response.

Sincerely,

A handwritten signature in black ink, appearing to read 'Schrems', written in a cursive, slightly slanted style.

Max Schrems