



GIOVANNI BUTTARELLI
ASSISTANT SUPERVISOR

Mr Bo BALDUYCK
Data Protection Officer
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GB/ALS/sn/D(2014)1497 C 2014-0625
Please use edps@edps.europa.eu
for all correspondence

Subject: Prior-checking notification on the processing operations related to contract management in the European Chemicals Agency

Dear Mr Balduyck,

I am contacting you with regard to your notification sent to the European Data Protection Supervisor ("**EDPS**") for prior-checking under Article 27 of Regulation (EC) No 45/2001 ("**the Regulation**") relating to the processing of personal data in the context of contract management in the European Chemicals Agency ("**ECHA**").

The processing operation has been notified under Article 27(2)(b) of the Regulation, which refers to "*processing operations intended to evaluate personal aspects relating to the data subject, including his or her ability, efficiency and conduct*".

Since we invited you to submit a notification (in case 2013-0010) on this matter the EDPS would like to inform you that the process covering contract management at ECHA is **not subject to prior checking**. Contract management could be subject to prior checking if an evaluation of the data subjects is envisaged. However, after a thorough examination of the data processing at hand we understand that the purpose is not to evaluate personal aspects and the contract management itself is not used to assess the ability or efficiency of the data subject. Therefore it does not fall under Article 27(2)(b) of the Regulation.

None of the other grounds for prior checking seems to apply either. However, if you believe that there are other factors justifying prior checking, we are of course prepared to review our position.

Nonetheless, the EDPS would like to make comments on the notification and the information provided therein:

With regard to the procedures for data subjects to exercise their rights of access, rectification and others, it is a good practice to include information on in which time limit a reaction can be expected (e.g. 3 months for access request, without delay for rectification, etc.).

The notification mentions a number of possible recipients of personal data, such as OLAF and the European Ombudsman. For your information, with regard to Article 2(g) of the Regulation, authorities which would only receive data in the context of specific targeted inquiries are not considered "recipients" and do not *need* to be mentioned in the privacy statement.¹

The EDPS expects that ECHA implements the recommendations accordingly and will therefore **close** the case.

Thank you for your cooperation.

Yours sincerely,

(signed)

Giovanni BUTTARELLI

¹ This is an exception to the information obligations in Article 11 and 12, but not to the rules on transfers in Articles 7 to 9. In practice, this means that authorities such as the OLAF, the European Ombudsman or the EDPS do not need to be mentioned in the privacy statement (unless the processing operation in question involves transfers to these organisations as part of the procedure); however, the applicable rules on transfers will always need to be respected.