

**From:** European Data Protection Supervisor  
**To:** [REDACTED]  
**Sent at:** 03/07/19 17:44:43  
**Subject:** Our ref. 2019-0219 - D 1358

Dear Sir,

Please find herewith attached a letter signed by Ms Harou for the above mentioned subject.

Sincerely yours,

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**EDPS Secretariat**



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**European Data Protection Supervisor**

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DELPHINE HAROU  
HEAD OF SUPERVISION AND ENFORCEMENT UNIT

[REDACTED]

Brussels,

- 3 JUL 2019

[REDACTED] D(2019)1358 C 2019-0219

Please use [edps@edps.europa.eu](mailto:edps@edps.europa.eu) for all correspondence

**Confidential**

**Subject: Complaint regarding the right to be forgotten – 2019-0219**

Dear [REDACTED]

We are writing to you in the context of the complaint that you submitted to the EDPS on 27 February 2019 (case 2019-0219).

Your complaint concerns the reference of your name in external search engines, such as [REDACTED] in relation to certain judgments of the Court of Justice of the European Union (CJEU) – Cases F-94/13, F-91/14 DISS, T-519/16 and C-454/17 P. In your complaint, you mention that you are not against the publication of the court decisions on the Curia website. Furthermore, you specify that you do not request the anonymisation of the Court decision on the Curia website. Your request concerns only the fact that the court decisions mentioned above will come up as search results when your name is inserted in a search engine.

First of all, we would like to point out that the EDPS is the independent authority of the European Union (EU) that deals with the supervision of the processing of personal data done by EU institutions and bodies<sup>1</sup>. In this sense, our tasks are similar to the tasks of national data protection authorities in the EU Member States, but apply only at the level of the European Union and its institutions<sup>2</sup>.

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<sup>1</sup> According to Article 1 (2) of the Regulation (EU) 2018/1725 (see <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:32018R1725>) '... **the European Data Protection Supervisor, shall monitor the application of the provisions of this Regulation to all processing operations carried out by a Community institution or body...**'. According to paragraph 1 of the same article, the 'Community institutions or bodies' are **the institutions and bodies set up by, or on the basis of, the Treaties establishing the European Communities** (see [http://europa.eu/about-eu/institutions-bodies/index\\_en.htm](http://europa.eu/about-eu/institutions-bodies/index_en.htm) for a full list).

<sup>2</sup> For example, like national data protection authorities, we also provide advice to the legislator on new legislative proposals and on initiatives having an impact on data protection and privacy.

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Tel.: 02-283 19 00 - Fax : 02-283 19 50

We have analysed the matter raised in your message, and it appears that your request does not relate to a processing of personal data by EU institutions or bodies:

The indexation by search engines of information inserted on the Curia website is performed by those search engines and not by the CJEU. Therefore, the EDPS cannot request the CJEU to refrain from performing that indexation in the rulings relating to you. We would also like to remind you that publicity of court decisions is the rule (see Article 47 EU Charter of Fundamental Rights) and that you could have asked for anonymity when the proceedings started in order to avoid having your name appear in search results linked to the Curia website.

Therefore, we recommend you to address your request to Google, informing them that you have contacted the EDPS and the CJEU, which may persuade them to perform the desindexation of the URL webpages. You can also request the assistance from the relevant national data protection authority (DPA). To this end, please find the contact details of all the national DPAs at the following link: [https://edpb.europa.eu/about-edpb/board/members\\_en](https://edpb.europa.eu/about-edpb/board/members_en).

In addition, we suggest that you contact the General Court Registry directly by sending a formal request for anonymisation of the procedural documents related to your name that are available on Curia. In the same correspondence, we invite you to ask the General Court Registry, as an alternative to anonymisation, to implement the necessary technical measures, such as a robots.txt file, to avoid indexing the procedural documents concerned by the search engines.

Please note that the CJEU by default applies the anonymisation of the procedural documents in all references for preliminary rulings sent to it since 1 July 2018. Please also note that the refusal of the CJEU to apply the same rule of anonymisation in other proceedings (e.g. actions for annulment) is currently the subject of an appeal before the CJEU in Case T-1/19 (OJ 164/56 of 13/05/2019). However, please be informed that the Court may not decide on the merits in this case if the appeal is found to be inadmissible (which it is for the CJEU to verify).

Should you not be satisfied by the reply of the CJEU, you can always complain to the EDPS using the online complaint form: [https://edps.europa.eu/data-protection/our-role-supervisor/complaints\\_en](https://edps.europa.eu/data-protection/our-role-supervisor/complaints_en).

However, please be aware that supervising the processing of personal data by the CJEU acting in its judicial capacity falls outside the competence of the EDPS. Given that the CJEU considers that publication of judgments is part of their judicial capacity, the EDPS will not be able to compel the CJEU to apply one or the other of the measures requested. However, we could informally contact the General Court Registry, inviting them to implement a technical measure to limit indexing. The EDPS has already obtained the application of such a measure from the Registry in the past. However, the EDPS cannot guarantee that such an informal request will succeed.

Nevertheless, if the General Court Registry refuses both options (anonymisation or technical measures to limit indexation), you may still contest such a decision of the Registry in accordance with the conditions and time limit provided for in Article 263 TFEU.

We hope you find this information useful.

Yours sincerely,

Delphine HAROU



**Data Protection Notice**

*According to Articles 15 and 16 of Regulation (EU) 2018/1725 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, please be informed that your personal data will be processed by the EDPS, where proportionate and necessary, for the purpose of investigating your complaint. The legal basis for this processing operation is Article 57(1)(e) of Regulation (EU) 2018/1725. The data processed will have been submitted by you, or from other sources during the inquiry of your complaint, and this may include sensitive data. Your data will only be transferred to other EU institutions and bodies or to third parties when it is necessary to ensure the appropriate investigation or follow up of your complaint. Your data will be stored by the EDPS in electronic and paper files for up to ten years (five years for prima facie inadmissible complaints) after the case closure, unless legal proceedings require us to keep them for a longer period. You have the right to access your personal data held by the EDPS and to obtain the rectification thereof, if necessary. Any such request should be addressed to the EDPS at [edps@edps.europa.eu](mailto:edps@edps.europa.eu). Your data might be transferred to other EU institutions and bodies or to any third parties only where necessary to ensure the appropriate handling of your request. You may also contact the data protection officer of the EDPS ([EDPS-DPO@edps.europa.eu](mailto:EDPS-DPO@edps.europa.eu)), if you have any remarks or complaints regarding the way we process your personal data. You can find the full version of our data protection notice on complaint handling at: [https://edps.europa.eu/data-protection/our-role-supervisor/complaints-handling-data-protection-notice\\_en](https://edps.europa.eu/data-protection/our-role-supervisor/complaints-handling-data-protection-notice_en).*