



DELPHINE HAROU
HEAD OF UNIT SUPERVISION AND ENFORCEMENT

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

By email to [REDACTED]

Brussels, **20 DEC 2019**
[REDACTED] D(2019) 2724 C 2019-0279
Please use edps@edps.europa.eu for all
correspondence

CONFIDENTIAL

**Re: European Data Protection Supervisor decision on your complaint
(Case 2019-0279)**

Dear [REDACTED],

We refer to the complaint against the European Chemicals Agency ('ECHA') you submitted to the European Data Protection Supervisor (the 'EDPS') on 10 March 2019.

We have considered the documents you provided with your initial complaint, the comments we received from the controller and your comments on its comments.

Findings of fact

ECHA collected your name, personal email address, address and phone number from you via an online form in order to process two requests you submitted for access to documents. ECHA does not accept anonymous requests for access to documents. As part of the data you provided, you confirmed that you are an EU citizen.

Your personal data was processed to handle your access to documents requests. In this context, your data and requests remained confidential within ECHA as an organisation.

Staff handling your access to documents requests identified you on the basis of the personal data you had provided. An ECHA member of staff approached you to discuss your access to documents requests. In response to a query you had raised about the good administration of your requests, an ECHA member of staff also contacted you using your professional email address rather than the personal email address you had provided in the online request form.

The EDPS has reached its findings of fact on the balance of probabilities in light of the available evidence.

Findings in law

You object to the fact that you were identified as an ECHA employee on the basis of the personal data you provided in your requests for access to documents.

The possibility that you might be identified from your personal data is inherent to the nature of personal data. As a result, your identification does not in itself contravene Regulation 2018/1725¹ (the 'Regulation').

We note that that you provided a private email address as a means for ECHA staff handling your requests to contact you. The fact that ECHA staff approached you using other channels is not in itself contrary to the Regulation.

Decision

The EDPS has found no breaches of Regulation 2018/1725 in relation to the allegations you have raised.

Recommendations for the controller

We recommend that in future, ECHA respond to requests for access to documents using the contact details provided by the applicant.

As part of our investigation of this complaint, it has come to our attention that a data subject accessing ECHA's webpage on access to documents or the online request form must make several steps to locate and navigate to the data protection notice that specifically relates to requests for access to documents.

We would like to remind ECHA of its obligation under Article 14 of the Regulation to provide transparent information to data subjects. We recommend that the data protection notice specific to requests for access to documents be directly accessible and clearly visible to individuals consulting ECHA's webpages on the topic.

A copy of this letter will be forwarded to ECHA.

Procedural rights

Both you and ECHA may ask us to review this decision within one month of receiving this letter. The request for revision should be lodged with us in writing and contain factual evidence or legal arguments which we have not yet taken into account.

¹ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 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, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC. OJ L 295, 21.11.2018, p. 39.

Both you and ECHA may bring an action for annulment against this decision before the Court of Justice of the European Union under Article 263 TFEU within two months of receiving this letter. Please note that this limitation period is not interrupted by any request you make to us to review our decision.

Yours sincerely,



Delphine HAROU

Cc: , ECHA