



FUEL CELLS AND HYDROGEN JOINT UNDERTAKING

PRIVACY STATEMENT FOR DATA COLLECTED FOR DATA COLLECTED VIA REQUESTS FOR ACCESS TO DOCUMENTS

This privacy statement explains how the Fuel Cells and Hydrogen 2 Joint Undertaking (here after referred to as FCH 2 JU) uses any information you give to us while making a request for access to documents, and the way we protect your privacy.

1. Context and Controller

The FCH 2 JU is committed to protect your personal data and to respect your privacy. The FCH 2 JU collects and further processes personal data pursuant to '*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 (repealing Regulation (EC) No 45/2001)*'.

This privacy statement explains the reason for the processing of your personal data, the way we collect, handle and ensure protection of all personal data provided, how that information is used and what rights you have in relation to your personal data. It also specifies the contact details of the responsible Data Controller with whom you may exercise your rights, the Data Protection Officer and the European Data Protection Supervisor.

This privacy statement concerns the processing of personal data by the FCH 2 JU when handling initial and confirmatory requests for access to documents lodged under Regulation (EC) No 1049/2001, undertaken by the unit responsible for dealing with initial requests for access to documents in the competent FCH 2 JU department or service.

The relevant processing operation is under the responsibility of the Executive Director of the Fuel Cells and Hydrogen 2 Joint Undertaking, acting as the Controller.

The FCH 2 JU may be contacted by sending an e-mail to fch-ju@fch.europa.eu , or at the following postal address: FCH 2 JU, TO 56-60, 1049 Brussels, Belgium

2. Which personal data do we collect, for what purpose and through which technical means?

Types of personal data

The personal data collected and further processed are:

a) Personal data, provided by the applicant via its request, such as:

- Name, specific contact details (e-mail and postal address, country of residence), subject of the request (it may contain personal data in case it relates to an identified or identifiable natural person);



- other contact details (telephone and telefax numbers), category and organisation;

b) Personal data, which the applicant provided in his/her request

c) Personal data contained in the documents requested, if released under Regulation (EC) No 1049/2001, as well as in the reply to the application and in related correspondence with the applicant.

Purpose and technical means

Purpose of the processing operation: the FCH 2 JU collects and uses your personal data in order to handle requests for access to documents lodged under Regulation (EC) No 1049/2001 within the prescribed legal deadlines and to establish an annual statistical report as required by Article 17(1) of the latter Regulation.

The personal data may be processed for the purpose of following up on an inquiry by the European Ombudsman or in case of court proceedings.

Your personal data will not be used for an automated decision-making including profiling.

Legal basis

The FCH 2 JU processes your personal data, because:

- processing is necessary for the performance of a task carried out in the public interest (Article 5(1)(a) of Regulation (EU) 2018/1725);
and
- processing is necessary for compliance with a legal obligation to which the European Commission is subject (Article 5(1)(b) of Regulation (EU) 2018/1725).

Furthermore, the processing of non-compulsory personal data you provide in your request for access to documents is based on your consent (Article 5(1)(d) of (EU) Regulation 2018/1725).

The processing pursuant to Articles 5(1)(a) and (b) needs to be based on Union law, namely Article 15(3) of the Treaty on the Functioning of the European Union and Regulation (EC) No 1049/2001.

3. Who has access to your information and to whom is it disclosed?

Access to your personal data is provided to authorised staff of the FCH 2 JU responsible for carrying out the processing operation and according to the ‘need to know’ principle. Such staff abide by statutory, and when required, additional confidentiality agreements.

Personal data that appear in the documents requested may be disclosed to the public following an assessment under Regulation (EC) No 1049/2001, read in conjunction with Article 9 of Regulation (EU) 2018/1725.

If you reside outside the EU and the FCH 2 JU grants you access to documents, personal data included in these documents will only be disclosed to you if such transfer fulfils the conditions of Chapter V of the Regulation (EU) 2018/1725 on international transfers of personal data.



The personal information we collect on the applicants who request access to documents will not be given to any third party, except:

- to the extent and for the purpose we may be required to do so by law; and
- for the purpose of dispatching access-to-documents decisions of the FCH 2 JU by registered mail via the processor DHL International (established in Belgium)

4. How do we protect and safeguard your information?

The personal data and all information collected related to the above-mentioned event is stored on the servers of the FCH 2 JU, the operations of which abide by the FCH 2 JU's security decisions and provisions established for this kind of servers and services. This includes the Common It Security Policy, implemented by the FCH 2 JU, applying the security measures described in the Commission Decision (EU. Euratom) 2017/46 of 10 January 2017 concerning the security of communication and information systems in the European Commission, Standards on Information Systems Security, Complementary information systems security policy and control measures as applied to specific applications by respective system owners.

The FCH 2 JU's contractors are bound by a specific contractual clause for any processing operations of your personal data on behalf of the FCH 2 JU, and by the confidentiality obligations deriving from the transposition of the General Data Protection Regulation in the EU Member States.

In order to protect your personal data, the FCH 2 JU has put in place a number of technical and organisational measures. **Technical measures** include appropriate actions to address online security, risk of data loss, alteration of data or unauthorised access, taking into consideration the risk presented by the processing and the nature of the personal data being processed. **Organisational measures** include restricting access to the personal data solely to authorised persons (staff members) with a legitimate need to know for the purposes of this processing operation (for example replying to your request).

5. How long do we keep your data?

The FCH 2 JU only keeps your personal data for the time necessary to fulfil the purpose of collection or further processing, namely no longer than five years after the closure of a case-file.

At the initial stage, a file is considered closed after the initial decision of the FCH 2 JU has become final (i.e. there was no confirmatory application), unless follow-up is required by an enquiry of the European Ombudsman.

In such case, a file is considered closed if the European Ombudsman has closed its enquiry in relation to the complaint without any need for further action on the part of the FCH 2 JU with regard to the application for access to documents.

At the confirmatory stage, a file is considered closed after the confirmatory decision of the FCH 2 JU has become final, namely:



- the deadline for bringing proceedings before the EU Courts has elapsed; or
- the EU Court confirmed the confirmatory decision; or
- the FCH 2 JU completed the follow-up requested by the EU Court in its Judgment.

A file is not considered closed despite the confirmatory decision being final in case of an enquiry of the European Ombudsman requiring follow-up. In such case, a file is considered closed if the latter has closed its enquiry in relation to the complaint without any need for further action on the part of the FCH 2 JU with regard to the application for access to documents.

This ‘administrative retention period’ of five years is based on the retention policy of FCH 2 JU documents and files (and the personal data contained in them), adopted following the common Commission-level retention list for European Commission files SEC(2019)900. It is a regulatory document in the form of a retention schedule that establishes the retention periods for different types of European Commission and FCH 2 JU files. The list of the European Commission has been notified to the European Data Protection Supervisor.

The ‘administrative retention period’ is the period during which the FCH 2 JU are required to keep a file depending on its usefulness for administrative purposes and the relevant statutory and legal obligations. This period begins to run from the time when the file is closed.

In accordance with the FCH 2 JU retention list, after the ‘administrative retention period’, files concerning requests for access to documents (and the personal data contained in them) can be transferred to the Historical Archives of the European Commission for historical purposes.

6. What are your rights and how can you exercise them?

You have specific rights as a ‘data subject’ under Chapter III (Articles 14-25) of Regulation (EU) 2018/1725. As regards this processing operation, you can exercise the following rights:

- ❖ right to access your personal data (Article 17 of Regulation (EU) 2018/1725);
- ❖ right to rectification in case your personal data are inaccurate or incomplete (Article 18 of Regulation (EU) 2018/1725);
- ❖ where applicable, the right to restrict the processing of your personal data (Article 20 of Regulation (EU) 2018/1725) and the right to data portability (Article 22 of Regulation (EU) 2018/1725); and
- ❖ as long as the reply to the request for access to documents has not yet been issued, the right to erasure of your personal data (Article 19 of Regulation (EU) 2018/1725) and the right to object to the processing of your personal data on grounds relating to your particular situation (Article 23 of Regulation (EU) 2018/1725). As a consequence of exercising these two rights, the respective request for access to documents would become obsolete.

Insofar the processing of your personal data is based on your consent (namely concerning non-mandatory personal data as described above) you can withdraw your consent at any time by notifying the Data Controller. The withdrawal will not affect the lawfulness of the processing carried out before you have withdrawn the consent.



You can exercise your rights by contacting the Data Controller (at fch-ju@fch.europa.eu), or in case of conflict the Data Protection Officer (at data-protection@fch.europa.eu). If necessary, you can also address the European Data Protection Supervisor. Their contact information is given under section 8 'Recourse' below.

Any request for access to personal data will be handled within one month. Any other request mentioned above will be addressed within 15 working days as after receipt of the request by the Data Controller.

7. Contact information

If you have any questions relating to this on-line service, please contact the support team operating under the responsibility of the Controller, using the following e-mail: fch-ju@fch.europa.eu

For any questions related to your rights, please contact the Data Protection Officer at Data-Protection@fch.europa.eu by indicating 'Data Protection' in the subject and explicitly specifying your request.

8. Recourse

You have the right to submit a complaint at any time directly to the European Data Protection Supervisor:

Rue Wiertz 60 - MO 63

B-1047 Bruxelles

Belgium

Tel: +32 2 283 19 00

Fax: +32 2 283 19 50

Email: edps@edps.europa.eu