

The European Data Protection Supervisor

and
the protection of personal data
in Community institutions
and bodies

*Every institution processes personal data.
They might be yours ...*



www.edps.europa.eu

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Why does data protection matter?

Every day, personal information is processed within the EU administration. Recruiting activities, staff appraisal, collection of health data in medical files, setting up of time management systems and video surveillance are only a few examples.

Although most often the personal information stored about you will only serve legitimate means with no further consequence, it also carries **risks**. If such information is inaccurate, out of date or disclosed to the wrong person, the damage caused to you may be quite serious. You could be unfairly refused a professional contract, mistaken for somebody else and denied access to a building, blamed for unauthorised disclosure of information, or even become victim of an identity theft.

All EU staff members are therefore concerned and need to be aware of their data protection **rights and obligations**. In addition, the general public may also be concerned if it entrusts personal information to Community institutions and bodies.

Data protection is a **fundamental right**, protected not only by national legislation, but also by European law. It is enshrined in Article 8 of the **Charter of Fundamental Rights** of the European Union.

Promoting a **'data protection culture'** within the institutions and bodies contributes to improving good governance. In addition, the integration of data protection safeguards in EU legislation and policies, whenever relevant, is a basic condition for their success.



* What is meant by 'personal data'?

Any information about a natural person can be considered as personal data if the person is identified or identifiable.

The person is either directly identified by name or is identifiable by an identifier (e.g. reference number) or by a combination of features specific to the person's identity (e.g. age category, nationality, function).

Examples of personal data are names, dates of birth, photographs, e-mail addresses, telephone numbers and personal numbers. Other details such as health data, data used for evaluation purposes, traffic data on the use of the Internet are also considered as personal data.



Who is the EDPS?

The EDPS is an independent authority. Peter Hustinx and Giovanni Buttarelli are members of the institution. They have been appointed European Data Protection Supervisor (EDPS) and Assistant Supervisor by a joint decision of the European Parliament and the Council. Assigned for a five-year term, they took office in January 2009.

Their mission is to make sure that the fundamental right to protection of personal data is respected by the Community institutions and bodies.



Peter Hustinx

European Data Protection Supervisor

Peter Hustinx has served as Supervisor since January 2004, contributing to the building of the new supervisory authority and developing its role at Community level. He was reappointed for a second five-year term of office in January 2009.

Prior to his appointment as Supervisor, Mr Hustinx worked as President of the Dutch Data Protection Authority from 1991. Between 1996 and 2000, he was Chairman of the Article 29 Data Protection Working Party, an EU advisory body composed of national data protection authorities.



Giovanni Buttarelli

Assistant Supervisor

Giovanni Buttarelli took office as Assistant Supervisor in January 2009.

Prior to his appointment as Assistant Supervisor, Mr Buttarelli worked as Secretary General of the Italian DPA from 1997. Between 2002 and 2003 he was President of the Schengen Joint Supervisory Body, after being its Vice-President.

What are the duties of the EDPS?

Good to know:

The EDPS is solely competent for data processed by Community institutions and bodies. He is **not competent** for issues on a **national level** and, therefore, has no supervisory powers for the processing of personal data by national authorities or private entities.

The EDPS' general objective is to ensure that Community institutions and bodies respect the right to privacy when they process personal data or develop new policies. The three main fields of work are listed below.

1. Supervision

- Monitoring the processing of personal data in Community institutions and bodies. The EDPS does so in cooperation with the data protection officers present in each Community institution or body.
- Hearing and investigating complaints lodged by individuals whose data are processed by European institutions and bodies, including staff members of the EU administration.
- Conducting inquiries and on-the-spot inspections, either on his initiative or on the basis of a complaint.

2. Advice

- Advising the Community institutions and bodies on all matters having an impact on the protection of personal data. The EDPS issues opinions on legislative proposals relating to the protection of personal data.
- Monitoring new technological developments that may have an impact on data protection.
- Intervening in procedures before the Court of Justice of the European Communities.

3. Cooperation

- Cooperating with national data protection authorities in order to promote consistent data protection throughout Europe.
- Cooperating with supervisory bodies established in the context of large-scale databases such as Eurodac — a database that contains digital fingerprints of asylum seekers.

The difference between the EDPS and national data protection authorities

The EDPS is competent to supervise and advise Community institutions and bodies.

Within the Member States, similar tasks are fulfilled by national data protection authorities and, in some countries, also by regional authorities. Their tasks usually extend to data processing by the private sector.

The EDPS cooperates with the national authorities, for instance within the framework of the Article 29 Working Party on Data Protection, but he is not positioned above the national or regional authorities.

The EDPS in his consultative role

During the first mandate, the EDPS issued almost 50 legislative opinions on important subjects for data protection.

Among the issues covered were the framework decision on data protection in the area of police and justice, the directive on the retention of telecom data, the regulation on public access to documents, the exchange of data with the United States, the directive on privacy and electronic communications, and the communication on radio frequency identification (RFID).

What are my rights?

Am I entitled to know whether a Community institution or body is processing data concerning me?

Yes. The **data controller** must provide you, either in advance or as soon as the data have been registered, with information that includes:

- **identity** of the data controller;
- **purpose** of the **processing** operation;
- **recipients** of the data;
- **your rights** as the person whose data are processed.

Am I entitled to check the data relating to me which the institutions are processing?

Yes. You have the right to obtain free of charge from the controller:

- **access** to your personal data and to certain information concerning the processing (purpose of the processing, data concerned, recipients to which they are disclosed, etc.);
- the **rectification** of inaccurate or incomplete personal data;
- the **blocking** and **erasure** of data in certain circumstances.



Am I entitled to object to the processing of my data?

You are entitled to object at any time, on **compelling and legitimate grounds**, to the processing of data relating to you.

You also have the right to be informed before your data are disclosed for the first time to third parties or — before they are used on their behalf — for the purposes of direct marketing. You are entitled to object to such disclosure or use.

What can I do in the event of a problem?

- Firstly, **notify** the **data controller** responsible for processing and ask him/her to take action.
- If you obtain no reply or if you are not satisfied with it, **contact** the **data protection officer** of the institution or body concerned (the list of data protection officers can be found on the EDPS website).
- You can also **lodge a complaint with the EDPS**, who will examine your request and adopt the necessary measures (see ‘How can I lodge a complaint with the EDPS?’).
- You may appeal against a decision of the EDPS before the Court of Justice of the European Communities.

Key words:

Processing: any operation performed upon personal data, whether or not by automatic means: collection, recording, storage, alteration, consultation, disclosure, blocking, etc.

Data controller: administrative entity (for example a General Directorate or a Unit of the European Commission) or person that determines the purposes and means of the processing of personal data on behalf of an institution or body.

For more information: please see the **data protection regulation** (Regulation (EC) No 45/2001, OJ L 8, 12.1.2001), which provides the legal framework for the processing of personal data by the Community institutions and bodies.

What is the role of data protection officers?



Every Community institution and body must appoint a data protection officer (DPO). The DPO is responsible for ensuring, in an independent manner, that the concerned institution/body respects its **data protection obligations**.

The DPO is a key figure in informing controllers and data subjects of their rights and obligations, and cooperates with the EDPS in the field of compliance with the **data protection regulation**.

It is he/she who submits **notifications** for **prior checking** to the EDPS.

In many cases, he/she serves as a contact point between the EDPS and the controller of the processing operation.

The DPO can provide useful background in the field of complaints, and provides information on the state of play of the institutions and agencies relating to compliance with the regulation.

The EDPS and the DPOs meet regularly, either bilaterally or during meetings of the DPO network.



Key words:

Data protection obligations: obligations assigned to the person or administrative entity that processes personal data. This includes the obligation to provide certain information to the person whose data are processed; to facilitate his/her access to his/her data and the exercise of other rights, such as rectification and erasure; and to ensure that appropriate security measures are in place.

Notification: prior notice, given to the data protection officer, of any personal data processing operation taking place in the institution or body concerned. Processing operations likely to present specific risks to the rights and freedoms of individuals must also be declared to the EDPS. This is qualified as a notification for prior checking.

Prior checking: verification carried out by the EDPS to examine whether the processing of sensitive data (e.g. data relating to health) respects the rights and obligations laid down in the data protection regulation. Prior checking by the EDPS takes the form of an opinion in which he may make recommendations to the institution or body concerned so as to ensure compliance.

Data protection regulation: Regulation (EC) No 45/2001 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies.



How can I lodge a complaint with the EDPS?

Who can complain to the EDPS?

Anyone who considers that his or her rights have been infringed when a Community institution or body has processed data relating to him or her can lodge a complaint with the EDPS.



The processing of personal data carried out by national authorities or private entities falls outside the area of competence of the EDPS. In addition, the EDPS does not act as an appeal authority to the national data protection authorities and their decisions can thus not be challenged before the EDPS.

How can a complaint be submitted?

The complaint has to be submitted in writing (by e-mail or post) to the following address:

European Data Protection Supervisor

Rue Wiertz 60
1047 Bruxelles/Brussel
BELGIQUE/BELGIË
edps@edps.europa.eu

It is essential that all relevant information is mentioned and that all documents necessary for the inquiry are enclosed.

How does the EDPS handle complaints?

In principle, all complaints are handled confidentially.

If a complaint is found admissible, the EDPS will carry out an inquiry if he finds this appropriate.

If possible, the EDPS will work to arrange a friendly solution between the complainant and the Community institution or body concerned. If not, the decision will be sent to the complainant as well as to the concerned institution/body which is responsible for the processing of data.

The supervisory powers of the EDPS are broad, ranging from simply providing advice to the person whose data are processed, through warning or admonishing the relevant institution, to imposing a ban on the processing or referring the matter to the Court of Justice of the European Communities.

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