



EDPS NEWSLETTER

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HIGHLIGHTS

EDPS welcomes EU-US “Umbrella Agreement” and stresses need for effective safeguards

In his *Opinion*, published on 12 February 2016, the European Data Protection Supervisor (EDPS) expressed his support for the *EU-US Umbrella Agreement* initiative. He recommended three essential improvements in the arrangement, designed to set a global precedent for the sustainable sharing and transfer of personal data for law enforcement purposes and to increase trust

between the two strategic partners. He also encouraged other clarifications before the initialled Agreement is signed.

Giovanni Buttarelli, EDPS, said: **Globalisation means that governments are working harder than ever to combat crime which implies more structured sharing of relevant information. The EU-US Umbrella Agreement may set**

a new international standard. To succeed, we encourage the Parties to carefully consider significant recent developments. They will help to introduce an arrangement fully compatible with the EU constitutional principles, in particular the EU Charter of Fundamental Rights.

[EDPS Opinion](#)

[EDPS Press Release](#)

EDPS starts work on a New Digital Ethics

On the occasion of Data Protection Day on 28 January 2016, the European Data Protection Supervisor (EDPS) announced that work on a new Digital Ethics was ready to begin. The EDPS launched a broader discussion, both in the EU and globally, on how to ensure the integrity of our values while embracing the benefits of new technologies.

Speaking at the annual Conference of Computers, Privacy and Data Protection (CPDP), he announced that he had established an Ethics Advisory Group, which will enable the realisation of the benefits of technology for society and the economy in ways that reinforce the rights and freedoms of individuals.

Giovanni Buttarelli, EDPS, said: **Most of us agree that we are each more than the sum of our data and yet we are more defined by our quantified selves than ever. Our privacy has almost become a commodity, used to sell ideas and products back to us or to influence our behaviour. I am, therefore, delighted to announce that the EDPS, with the support of an Ethics Advisory Group, has started its work to re-consider the ethical dimension of the relationships between human rights, technology, markets and business models and their implications for the rights to privacy and data protection in the digital environment.**

With the help of this group, we intend to identify a new ethical approach in the coming years so that individuals are no longer reduced to mere data subjects in the digital environment.

The group consists of J. Peter Burgess, Luciano Floridi, Jaron Lanier, Aurélie Pols, Antoinette Rouvroy and Jeroen Van den Hoven. These six eminent persons, each an expert in their respective field, will consider digital ethics from a variety of academic and practical perspectives. They are expected to deliver an interim report by January 2017, for public consultation, and a final report by January 2018.

[EDPS Press Release](#)

The EDPS opens Reference Library

On 26 January 2016, the European Data Protection Supervisor (EDPS) officially launched the EDPS *Reference Library*. The virtual library provides information on a selection of subjects covered in the course of the EDPS’ supervision of the *EU institutions and bodies*.

Wojciech Wiewiórowski, Assistant Supervisor, said: **The EDPS Reference Library is a source of information on data protection across a number of subjects and we offer it in an easily accessible format, in an easy-to-read style. With our 12 years of supervisory experience as the foundation, it is our intention to share our**

expertise with the EU institutions as part of our efforts to support them to integrate data protection principles into their everyday work. Our aim is also to make the library relevant to a wider audience and I am confident that anyone or any organisation interested in data protection might find it a useful resource.

The online library, which will be developed further and kept regularly updated, offers information on a selection of different subjects covered in the course of the EDPS’ supervisory work. A single document contains a summary to introduce each subject

and includes links to relevant documents for further reading and more detailed information.

As outlined in the *EDPS Strategy 2015-2019*, the EDPS considers it vital to make data protection easier, clearer and less bureaucratic if it is to underpin the digital world now and into the future. The Reference Library is one way to reach out and encourage dialogue on European as well as global issues and work towards a social consensus on data protection principles.

[EDPS Reference Library](#)

[EDPS Press Release](#)

EU Institutions making steady progress

The EU institutions and bodies are making steady progress implementing data protection rules. This was the conclusion of our [report](#), published on 21 January 2016, on the latest EDPS stocktaking exercise.

Giovanni Buttarelli, EDPS, said: **As the EU's independent supervisory authority, it is the EDPS' role to keep EU institutions on track in fulfilling their data protection obligations. The institutions**

themselves are accountable for applying the rules and integrating data protection principles in their daily work. I am pleased that the results of our Survey confirm that they increasingly do.

Every two years, the EDPS conducts a Survey on selected areas of data protection at all the EU institutions and bodies we supervise. 61 EU institutions were surveyed in the latest exercise on the state of registers



and inventories. These contain information on each operation involving the [processing](#) of personal data (such as the collection, use, sharing and so on). The Survey also addressed other areas such as transfers to non-EU countries and how [data protection officers](#) are involved in the development of new processing operations.

[EDPS Survey Report](#)
[EDPS Press Release](#)

Keeping eCommunications privacy friendly

Every modern organisation uses electronic communications and the EU Institutions are no exception. Everyone has access to email and internet at work and some staff are provided with smartphones or other technology, for which limited private use is often permitted. However, though this makes working life easier for all involved, it also raises interesting questions about privacy and data protection in the workplace. To what extent can the EU institutions monitor their employees? Under what conditions can they access staff mailboxes?

On 17 December 2015, the EDPS published Guidelines for the [EU institutions and bodies](#) on [electronic communications](#)



(eCommunications). These Guidelines offer practical advice to organisations on how to integrate data protection principles into their management of email, internet and telephony for work purposes. They cover questions such as how to manage the security of these systems, how to verify authorised use, how to address billing for private calls on work equipment and how to access mailboxes for business continuity purposes or for internal investigations.

Our Guidelines focus on respecting the general principles of data protection. They build on years of practical experience through EDPS supervision work, on previous EDPS decisions and Opinions, as

well as on the work done by the Article 29 Working Party.

Although they are based on the current data protection legal framework applicable to the EU institutions, they will remain relevant when the new framework comes into force. This is because they already anticipate the stronger focus on the accountability of organisations, including EU institutions, to demonstrate that they are complying with their data protection obligations. Additionally, though they are addressed to the EU Institutions, they can also serve as inspiration for organisations elsewhere.

[EDPS Guidelines](#)
[EDPS Press Release](#)

Priorities for 2016: The EDPS as an advisor to the EU Institutions

As 2015 drew to a close, the EDPS published his [Priorities](#) for the policy and consultation activities of the organisation for 2016.

Giovanni Buttarelli, EDPS, said: **In 2016, we will continue to work closely with the European Commission, the Council and the European Parliament in order to ensure that our advice is as timely and relevant as possible. By making our Priorities public, we hope to help the relevant Commission services to better identify those initiatives on which the EDPS recommends an informal**



consultation at an early stage, as per our long-standing agreement.

This work programme ([a cover note](#) and a colour-coded [table](#)) lists those European Commission proposals most likely to have implications for the fundamental rights to privacy and to the protection of personal data and for which the EDPS plans to issue a formal Opinion or Comments.

[EDPS Priorities Cover Note](#)
[EDPS Priorities Table](#)
[EDPS Press Release](#)

EDPS issues an alert on intrusive surveillance

On 15 December 2015, the EDPS published his *Opinion on Intrusive surveillance technology*. He said he was issuing an alert about the risks posed by the unregulated and growing market for the selling, distribution and (dual) use of spyware.

Giovanni Buttarelli, EDPS, said: **As the unregulated market for the trading and use of covert monitoring technology continues to grow, the EU must not underestimate the appetite for such technology. By addressing weaknesses in existing legislation and policies as well as developing new legislation, the EU legislator can help protect against the very real threat posed to our privacy and data**

protection rights. The sale of these privacy-invasive dual-use tools and the offer of related services also needs to be more tightly regulated in the EU to prevent human rights abuses in Europe and further afield.

In an appeal to the IT community in particular and the EU legislator in general, the EDPS said that more needs to be done to monitor the market and urged them to investigate safeguards to embed privacy by design to secure the technology. Without fixing the vulnerabilities, he said, the *digital single market* will not succeed.

EDPS Opinion

EDPS Press Release



Robust regulation for online platforms?

On 16 December 2015, the EDPS responded to a public consultation by the European Commission on the *regulatory environment for online platforms and intermediaries, data and cloud computing and the collaborative economy*.

The EDPS has often expressed concerns about the use of personal data to fuel business models operated by, or linked to, online platforms. In our *Opinion on Big Data* in late 2015, for example, we called on organisations to be accountable and transparent and to focus on gaining consumer trust as part of a smart business strategy. Our response to the consultation aimed to reinforce this message.



We stressed the need for *data protection principles and rules*, such as necessity, proportionality, *data minimisation*, purpose limitation and transparency to be ensured by online platforms. We also specified that these basic principles should be complemented by new principles such as *accountability* in data processing and *privacy by design* and by default, which will become obligatory under the data protection reform.

We emphasised that good regulation is not enough if effective compliance and enforcement are not provided for. We therefore urged the Commission to implement measures to ensure that data protection remains a top priority in the regulation of online platforms.



COURT MATTERS

Russian secret surveillance under scrutiny

In a landmark judgment on 4 December 2015, the Grand Chamber of the European Court of Human Rights declared that the practice of secretly intercepting mobile telephone communications in Russia violated the right to respect for private life and correspondence, enshrined in Article 8 of the European Convention on Human Rights.

The case was brought before the Court by Roman Zakharov, editor-in-chief of a publishing company and chairman of an NGO, committed to defending the freedom of the press. He challenged the Russian law



which obliges mobile network operators to install equipment through which law enforcement agencies can intercept all communications without prior judicial authorisation. He argued that the law provided for the interception of all communication in Russia.

The Court ruled that Mr. Zakharov was entitled to claim to be the victim of a violation of the European Convention, without having to prove that the surveillance measures had been applied to him. This was because the surveillance measures in question affected users of all types of mobile telephone

communications and were carried out in secret. There was also no way to challenge the legislation in Russia.

The Court explained that, while the surveillance system pursued legitimate aims, such as those related to national security, secret surveillance must be accompanied by adequate and effective safeguards against abuse. The Court ruled that since Russian law did not provide such safeguards and stressed that, as the legislation provided the secret services and police with direct access to all mobile telephone communications, the risk of abuse was particularly high.



IT engineers face new challenges

The EU's General Data Protection Regulation (GDPR) will be one of the first data protection laws to include the legal obligation to apply the principles of *data protection by design* and *data protection by default*. This will mean that privacy and data protection must be built into all new technologies.

From mid-2018, when the GDPR is expected to come into force, *data protection authorities* (DPAs) will be responsible for ensuring that *data controllers* comply with these obligations and will be able to issue fines to those organisations which do not.

At the *Computers, Privacy and Data Protection* (CPDP) conference in Brussels, the current state of technical expertise in DPAs was discussed with representatives from the DPAs themselves and other experts. The *panel* discussion, which reflected work on an ongoing study, confirmed that DPAs are aware of the need to develop their IT expertise and have invested considerably in this area.

Lawyers and IT engineers must also start preparing themselves to ensure they are ready to integrate data protection principles into the design of new IT systems.

This objective was discussed at a meeting of members of the Internet Privacy Engineering Network (*IPEN*), which took place on the margins of the CPDP conference.

In his closing speech at the conference, EDPS Giovanni Buttarelli called for practical, technical solutions to the challenge facing us. IPEN will look to provide these solutions through its work over the next two years, to ensure that all parties are prepared when the reform comes into force in 2018.



Keeping your data mobile – and safe

Mobile devices are becoming increasingly common in the daily work of many organisations, including the EU institutions. They address the need for mobility, increase employee satisfaction and provide cost savings. These benefits, however, must be supported by an effective data protection strategy.

On 17 December 2015, the EDPS published our *Guidelines* on mobile devices. They offer practical advice to organisations on how to integrate data protection principles into the management of mobile devices in the workplace.

Among other things, the Guidelines advise the EU institutions to:

- weigh up the costs and benefits of using mobile devices for each specific operation (case-by-case) and take into account the risks and levels of invasiveness that their use may imply;
- implement an acceptable-use policy on mobile devices, in order to clearly define the relationship between EU institutions and their staff;
- implement a risk management process which assesses the security risks associated with using mobile devices for processing personal data and enforce measures to deal with these risks.

While these Guidelines are in principle aimed at the EU institutions, anyone or any organisation might find them a useful tool for ensuring compliance with data protection law, both now and in the future.



Smart data protection for smart grids

On 22 January 2016, three major European utility companies presented their experiences with the *Smart Grid Data Protection Impact Assessment template* (DPIA) in a workshop held at the European Commission's Directorate General for Energy (DG ENER). The DPIA is part of an initiative to make smart technologies more privacy friendly.

The DPIA template was drafted by representatives of the European energy and gas industry, with *input* from the *Article 29 Working Party* (WP29), of which the EDPS is a member. In October 2014, the Commission recommended a two-year test phase for the template. The EDPS and our partners in the WP29 have been closely following the test phase and have provided advice where necessary.

The DPIA is different to a general corporate risk assessment, which does not usually take into account privacy and data protection risks for individuals. It provides essential data protection guidance which companies should integrate into existing processes, such as the management of security for corporate information.

The test-phase highlighted the strengths of the template but also revealed some areas for improvement. For example, while companies who applied the template found that testing the tool raised awareness of data protection issues among staff and provided them with a structured approach to integrating data protection into their activities, they also identified a need to simplify some aspects of the template and provide further guidance on some subjects.

At the workshop, Assistant Supervisor, Wojciech Wiewiórowski, highlighted how valuable this exercise has been, particularly in light of the data protection reform, which will oblige *data controllers* to perform data protection impact assessments in cases where personal data could be at risk.

More companies will test the DPIA before the end of 2016 and the template will continue to be improved to ensure that data protection becomes a central concern in the development of smart technologies.



Systematic security: protecting data in the EU's largest databases

In the course of 2015, the EDPS worked with other national data protection authorities to develop a security audit framework. The framework aims to ensure that inspections of all [large-scale IT systems](#) cover all relevant security concerns.

Large-scale IT systems are used by the EU to increase cooperation and information exchange between national authorities and, in some cases, EU bodies. They include databases which



deal with visa applications and asylum requests. The proposed framework provides easy-to-follow guidance on the specific elements of these IT systems which must be assessed in an inspection, therefore helping to ensure consistency when carrying out inspections.

The collection of inspection data using the framework will make it much easier to analyse the results of each inspection, as well as to draft the inspection report and

recommendations. Furthermore, once every inspection is carried out using the same framework, we will be able to compare results, both across time and across the different national [data protection authorities](#) (DPAs) who carry out the inspections. This is a valuable tool that will both ensure the consistency of the supervisory activities of the EDPS and DPAs and ensure effective compliance.



EVENTS

EDPS promotes inter-institutional cooperation on informatics

On 16 February 2016, the EDPS hosted a meeting of the CII, the inter-institutional Informatics Committee. This was the first time the EDPS had hosted the Committee, which consists of senior IT managers from the EU's most important institutions and related international organisations, such as the Council of Europe, the European Space Agency and the European Patent Office.

A number of common initiatives were discussed, including the first cloud computing contracts for EU institutions, encrypted email within the EU institutions and steps to define the digital workplace of the future for EU staff.

Both the EDPS and the Assistant Supervisor participated in the meeting. EDPS Giovanni Buttarelli provided an overview of the latest developments in data protection, including the agreement on the GDPR and efforts to replace the

obsolete Safe Harbour Decision. He offered his support to the European Parliament and the Commission and explained the importance of the new EDPS initiative on [digital ethics](#).

Assistant Supervisor, Wojciech Wiewiórowski, focused on the aims of the EDPS. He highlighted our intention to lead by example and promote innovation, as outlined in our [Strategy 2015-2019](#), and stressed the need for data protection to *go digital*, through integrating it into the architecture of all information systems.

Following an enthusiastic response from the Committee to our presentations, future cooperation between the CII and the EDPS might include a workshop on the data protection reform with IT staff and [data protection officers](#) (DPOs) and a workshop on big data, a subject in which many CII members have expressed an interest.



EDPS meets international organisations

On 5 February 2016, the EDPS and the International Committee of the Red Cross hosted the fifth workshop on data protection as part of good governance in international organisations. Taking place in Geneva, the workshop provided a forum for discussion on data protection within international organisations.

The workshop was the fifth in a series of workshops initiated by the EDPS, the first of which took place in Geneva in 2005. Our aim



was to support a constructive dialogue between international organisations on data protection and privacy. Topics of discussion included the state of play of data protection within international organisations, recent developments in data protection and privacy and the impact of these new developments on international organisations. It is expected that a final report of the workshop will be adopted in the coming weeks, acknowledging the importance of developing internal policies

and rules in international organisations for the processing of personal data.

The event was considered a success, with representatives from 25 international organisations and 49 individual participants in attendance. Most participating organisations expressed an interest in developing a more permanent forum for the discussion and exchange of information on data protection rules. We will aim to hold this workshop on a more regular basis.

Celebrating 10 years of EU DATA PROTECTION DAY



On 28 January 2016, the 47 countries of the Council of Europe, as well as the European institutions, agencies and bodies, celebrated the tenth annual European Data Protection Day. The date is an opportunity for the

EDPS to raise awareness of data protection rights and obligations, particularly among EU staff, but also to a wider audience. Several events took place throughout the day, including a conference on the EU data

protection reform, co-hosted by the European Parliament and the EDPS. The conference was an opportunity to inform EU staff on the impact of the EU data protection reform. Speakers included EDPS, Giovanni Buttarelli,

Assistant Supervisor Wojciech Wiewiórowski, Director-General of the European Parliament Legal Service Freddy Drexler and Director-General for Innovation and Technological Support at the European Parliament Giancarlo Vilella.

The EDPS also hosted a lunchtime event on *Smart Sharing*. The Supervisor and Assistant Supervisor were joined by Professor Jaap-Henk Hoepman from the University of Nijmegen and EDPS Legal Officer Gabriela Zanfir to speak to trainees working in the EU institutions about how best to protect their privacy in the digital world.

Also taking place on Data Protection Day this year was the annual *Computers, Privacy and Data Protection* (CPDP) conference. The Supervisors, as well as many EDPS colleagues, sat on various panels and took part in other activities during the three-day conference. Subjects under discussion included encryption, the internet of things,

international data transfers, border control and privacy in mobile apps.

We also hosted our own panel at the conference. The panel on Data, Dignity and Technology, which took place on the afternoon of Data Protection Day, served as the occasion for the EDPS to *launch an ethics advisory group*, charged with assessing the ethical implications of how personal information is defined and used in the big data world. This panel was followed in the evening by a live transatlantic discussion on big data, organised by the EDPS, the Council of Europe and the National Cyber Security Alliance.

EDPS Giovanni Buttarelli brought the week's activities to an end as he delivered the closing speech at the CPDP conference. He stressed the need to put the individual at the centre of data protection, in order to ensure that the technology we use continues to serve the individual, and not the other way around.



SPEECHES AND PUBLICATIONS

- 'Towards an Opinion on the EU-US Privacy Shield', speech ([PDF](#)) given by Giovanni Buttarelli at the European Parliament's Civil Liberties, Justice and Home Affairs Committee (LIBE), Brussels, Belgium (17 March 2016)
- 'Les données et la concurrence dans l'économie numérique', opening statement ([PDF](#)) given by Giovanni Buttarelli at the Roundtable on data and competition hosted by l'Autorité de la Concurrence, Paris, France (8 March 2016)
- "Living in a future Big Data world: can prosperity, freedom and fundamental rights be reconciled?", Keynote address ([PDF](#) and [video](#)) given by Giovanni Buttarelli at the Delphi Economic Forum, Delphi, Greece (27 February 2016)
- "Personal data protection in churches and religious organisation", Speech ([PDF](#)) given by Giovanni Buttarelli at the Conference organised by the Polish Inspector for Personal Data Protection at Opole University and the University of Szczecin, Warsaw, Poland (25 February 2016)
- 'Preliminary opinion on the EU-US "Umbrella Agreement"', speech ([PDF](#)) given by Giovanni Buttarelli at the European Parliament's Civil Liberties, Justice and Home Affairs Committee (LIBE), Brussels, Belgium (15 February 2016)
- Opening address ([PDF](#)) given by Giovanni Buttarelli at the Fifth Workshop on Data Protection in International Organisations, Geneva, Switzerland (5 February 2016)
- Closing remarks ([PDF](#)) given by Giovanni Buttarelli at the 9th International Computers, Privacy and Data Protection Conference, Brussels, Belgium (29 January 2016)
- 'A new year, a new chapter', ([PDF](#)), article by Giovanni Buttarelli published in New Europe Our World in 2016 (5 January 2016)
- "Data protection as a bulwark for digital democracy", keynote speech ([PDF](#)) given by Giovanni Buttarelli at the 6th International e-Democracy 2015 Conference on Citizen rights in the world of the new computing paradigms, Athens, Greece (11 December 2015)



DATA PROTECTION OFFICERS

Recent appointments

- Ms. Marta Campos-Iturralde, Bio-Based Industries Joint Undertaking (BBI-JU)
- Mr. Christos Georgiadis, European Institute for Gender Equality (EIGE)
- Mr. Dirk Homann, Education, Audiovisual and Culture Executive Agency (EACEA)
- Mr. Dimitris Lelovitis and Ms. Marie-Judith Moriconi, Agency for the Cooperation of Energy Regulators (ACER)
- Ms. Clarisse Ribeiro, European Defence Agency (EDA)
- Ms. Emese Savioa-Keleti, European External Action Service (EEAS)
- Mr. João Soares Da Silva, European Research Council Executive Agency (ERCEA)
- Ms. Veselina Tzankova, European Anti-Fraud Office (OLAF)

[See full list of DPOs](#)

About this newsletter

This newsletter is issued by the European Data Protection Supervisor (EDPS) – an independent EU authority established in 2004 to:

- monitor the EU administration's processing of personal data;
- give advice on data protection legislation;
- cooperate with similar authorities to ensure consistent data protection.

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