

Revised Memorandum of Understanding on increasing cooperation between the European Data Protection Supervisor and the European Union Agency for Fundamental Rights

I. Preamble

1. This document is a Memorandum of Understanding setting out the principles for increased cooperation between:

The European Data Protection Supervisor (EDPS), established by Regulation (EU) 2018/1725 of the European Parliament and of the Council¹, represented for the purposes of signature of this Memorandum of Understanding by the European Data Protection Supervisor, Wojciech Wiewiórowski; and

The European Union Agency for Fundamental Rights (FRA), established by Council Regulation (EC) No. 168/2007² represented for the purposes of signature of this Memorandum of Understanding by its Director, Michael O’Flaherty;

2. Under Article 52 of Regulation (EU) 2018/1725, the EDPS is an independent supervisory authority responsible, with respect to the processing of personal data, for ensuring that the fundamental rights and freedoms of natural persons, and in particular their right to data protection are respected by the EU institutions and bodies.
3. Under Article 2 of Council Regulation (EC) No. 168/2007, the FRA is responsible for providing the relevant institutions, bodies, offices and agencies of the EU and its Member States when implementing Union law with assistance and expertise relating to fundamental rights in order to support them when they take measures or formulate courses

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).

² Council Regulation (EC) No 168/2007 of 15 February 2007 establishing a European Union Agency for Fundamental Rights (OJ L 53, 22.2.2007, p. 1).

of action within their respective spheres of competence to fully respect fundamental rights.

4. Under Article 2 (c) of Council Decision (EU) 2017/2269³ FRA is required to carry out its tasks in the area of information society and, in particular, of the respect for private life and the protection of personal data, without prejudice to the responsibilities of the European Data Protection Supervisor. Under Article 7 of the Regulation (EC) No 168/2007, the FRA is responsible for ensuring appropriate coordination with relevant Union bodies, offices and agencies. Under Recital 6 of Council Decision (EU) 2017/2269 complementarity between FRA's work and other Union bodies, in particular the European Data Protection Supervisor, should be ensured.

II. Purpose

5. This Memorandum of Understanding has been agreed in recognition of the common interest of EDPS and FRA to cooperate more in relevant areas. Building on earlier exchanges, it aims to establish, define, encourage and improve their cooperation in accordance with and subject to their respective statutory duties under EU law.
6. This Memorandum of Understanding does not affect in any way the duties and powers of the EDPS as a supervisor of the processing of personal data by the FRA as an EU body, nor does it affect in any way the duties of the FRA as a data controller or data processor under Regulation (EU) 2018/1725 and as an independent expert institution under Regulation (EC) No 168/2007.

III. Liaison and exchange of information

7. FRA and EDPS agree to establish a single contact point responsible for coordinating their cooperation and for consulting each other on a regular basis, particularly with regard to the terms of this Memorandum of Understanding.

³ Council Decision (EU) 2017/2269 of 7 December 2017 establishing a Multiannual Framework for the European Union Agency for Fundamental Rights for 2018–2022 (OJ L 326, 9.12.2017, p.3).

8. FRA and EDPS agree to exchange contact details of the contact points and to inform each other without undue delay in writing of any change concerning the contact points.
9. FRA and EDPS agree to share information about initiatives relevant to the identified areas of cooperation from different fora such as conferences, resolutions and working group.
10. FRA and EDPS aim to meet at least once a year to review matters of common strategic interest, to identify areas of cooperation, and in order to exchange views on the main forthcoming challenges for the fundamental rights to privacy and to data protection and to related rights.
11. FRA and EDPS agree to inform and to exchange views with each other while preparing strategic documents such as work programmes and action plans insofar as they are relevant to the areas of cooperation identified in this Memorandum of Understanding.

IV. Research and Opinions

12. FRA and EDPS agree to exchange information on upcoming research activities of mutual concern and exchange on forthcoming opinions of common strategic interest.
13. FRA and EDPS agree to invite each other to relevant expert meetings and where appropriate collaborate in research activities.
14. FRA and EDPS agree to collaborate on the collection, recording and analysing of information and data relevant to their areas of cooperation.
15. FRA and EDPS agree to consider organising joint training activities relating to areas of common interest and contributing jointly to training activities organised by other bodies.

V. Expenses and Procurement

16. FRA and EDPS each bear any of their own expenses that may arise in the course of implementing this Memorandum of Understanding, unless agreed otherwise on a case-by-case basis.

17. In order to meet the objectives of the cooperation set out in this Memorandum of Understanding, FRA and EDPS agree to consider, where appropriate conducting, either joint procurement exercises or to allow use of single procurement exercises by the other party against reimbursement.

VI. Confidentiality

18. FRA and EDPS each undertake to keep any information, document or other material communicated to them as confidential, and not to disclose such confidential material without the prior written consent of the disclosing Party.
19. FRA and EDPS agree that, for the purposes of the Memorandum of Understanding, no European Union classified information above EU RESTRICTED/RESTREINT UE shall be exchanged between the Parties. They agree to respect all security measures related to the protection of EU classified information.

VII. Entry into force and revision

20. This revised Memorandum of Understanding shall enter into force on the day following its signature by FRA and EDPS and shall replace the Memorandum of Understanding between FRA and EDPS signed on 30 March 2017.
21. FRA and EDPS may by mutual consent at any time amend or supplement this Memorandum of Understanding. Any such amendments or supplements or terminations will be in writing.
22. FRA and EDPS agree to review regularly cooperation under this Memorandum of Understanding.

Done on 22 June 2020

For FRA
The Director

For EDPS
The European Data Protection
Supervisor