



# NEWSLETTER

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## **1. The availability principle - EDPS Opinion on the proposal for a framework decision**

The European Data Protection Supervisor (EDPS) recently issued his Opinion on the proposal for a framework decision on the exchange of information under the principle of availability. Introduced by the Hague program, the principle means that information that is available to law enforcement authorities in one Member State should also be made accessible for equivalent authorities in others. The principle raises a number of data protection issues, notably because of the sensitivity of the data and the reduced control of the use of the information.

In his Opinion, the EDPS calls for introducing the principle gradually and cautiously, as the sharing of sensitive data is subject to greater risks. He

advocates the use of only one type of data (and not six as proposed by the Commission), indirect access (index data of information that is not available on-line) and a hit/no-hit system, which would allow for more control of the exchange of information than a system based on direct access.

Click to read the [Opinion](#) or the [press release](#).

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## **2. Interoperability of databases - EDPS Comments on the Commission Communication**

The EDPS has sent his Comments to the Commission on the policy options for the interoperability of databases in the field of Justice and Home Affairs, as presented in one of its Communications. 'Interoperability' raises a number of data protection questions, as it will allow for new access to the personal data of EU citizens. The EDPS therefore strongly disagrees with the Commission that this is a technical rather than a legal or political concept and calls for a careful examination.

In his Comments to the Commission, the EDPS strongly discourages the use of biometric data, such as fingerprints - or perhaps even DNA - as a unique identification key (the reference to a person). The accuracy of biometrics is overestimated in this respect and it will facilitate unwarranted interconnection of databases.

The Communication led the EDPS to develop a new tool ('Comments') for presenting his views. Shorter, and less comprehensive than his opinions, the EDPS Comments will be used, *inter alia*, for addressing Commission Communications that may have a long term policy impact on the protection of personal data.

Click to read the [Comments](#) or the [press release](#).

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## **3. Eurodac inspection report**

The EDPS recently completed his first inspection of the Eurodac central unit and has produced a report in which he expresses general satisfaction with the security level, although a number of concrete recommendations are given.

The Eurodac system with digital fingerprints of all asylum seekers in the EU is used in the Member States to support the asylum procedure. Good data protection is of utmost importance for the asylum seekers as well as for the functioning of the system, which is composed of local units in the Member States and a central unit.

The central unit is operated by the European Commission and supervised by the EDPS. The first EDPS inspection focused on a number of security aspects, including risks and incidents management, security of

communications, physical access control, etc. It will be followed by an in-depth security audit by mid 2006. Because of the shared responsibilities between the EDPS and the data protection authorities in the Member States (who are responsible at the national level), it is important that there is a common approach to supervision. The EDPS has therefore organised a coordination meeting, and will present the inspection report at the next meeting, scheduled for June.

Click to read the [press release](#).

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#### **4. News on EDPS prior checking of processing of personal data**

Processing of personal data by the EU administration that is likely to result in specific risks for the people concerned (the data subjects) is subject to a prior check (control) by the EDPS. This procedure serves to establish whether or not the processing is in compliance with Regulation 45/2001, which lays down the data protection obligations of the EU institutions and bodies. The Opinions are generally published on the EDPS website. Three recent concern:

##### EPSO selection procedure

The European Personnel Selection Office (EPSO) ensures the recruitment of officials through competitions. In his Opinion, the EDPS found it necessary to underline that personal data are not only identification data, but all data relating to an identified or identifiable person - which is the case if data characterise a person's identity or behaviour, or if they are used for evaluation. This is relevant in the context of competitions, including personal evaluations of juries.

EPSO has substantially followed the principles of the Regulation, although the EDPS made some recommendations regarding the retention time, long term conservation and on limiting transmission only to services in charge of recruitment. A specific recommendation regarded the publication of the conditions of competitions in the Official Journal; the fields of the oral test and their detailed marks - and that the candidates must be informed of their right of access to the results also of the oral tests.

##### Flexitime

The General Secretariat of the Council (GSC) will introduce an IT system for the registration and management of working hours and absences of its staff in order to manage flexitime rules. The recording by badges at readers near entrances and the use of intranet (recordings and their validation/authorisation by the immediate superior) form part of the system. It will interface with human resource databases.

In his opinion, the EDPS concludes that the Regulation is complied with as long as certain recommendations are taken into account, for example on the data conservation period, on the definition of managers' access to the

personal data of the staff members under their responsibility, and on the information to be given to the data subject.

#### Council security phone lines and radios

Any person who witnesses an accident or an incident in the Council must report it to the Security Centre. This is normally done by phone and the witness must mention his/her name, the location and the reason for the call. The security officer will immediately notify the relevant emergency department. A few other people may subsequently listen to the recordings if it is necessary to determine the exact course of events in follow-up actions, to analyse threat calls, or to verify compliance with the Security Office's internal instructions.

In his opinion, the EDPS concludes that the Regulation is complied with, as long as certain recommendations are taken into account, such as concerning the strict interpretation of limiting the data subject's right of access.

Click [here](#) for the index with the full text versions of the Opinions.

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### **5. New Data Protection Officers**

Each EU-institution and body shall appoint at least one person as Data Protection Officer (DPO). These officers have the task of ensuring in an independent manner the internal application of Regulation (EC) No 45/2001. The EDPS has issued a [position paper](#) on their role, which has had positive feedback, and also increased the number of DPOs.

#### Recent appointments:

Loïc Julien, European Ombudsman

Laraine Laudati, European Anti-Fraud Office

Romuald Delli Paoli, European Training Foundation

Andreas Mitrakas, European Network and Information Security Agency

Arne Tvedt, European Monitoring Centre for Drugs and Drug Addiction

Claus Reunis, European Food Safety Authority

The full list of DPOs is available [here](#).

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### **6. EDPS new logo**

The creation of a new logo for the EDPS with an apparent 'EU-institutional' link but that would stand out as individual was finalised at the end of 2005. The new logo, which has a clear visual link with the main responsibilities of the EDPS, has been gradually introduced during 2006.

Based on the yellow and blue colours of the EU flag, EDPS logo takes the shape of a dynamic storage disk, which can also be seen as a protective shield for the data. Pixels of information form an ellipse that transforms from the shape of a person to European stars.

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## **7. Colofon**

This newsletter is issued by the European Data Protection Supervisor - an independent EU authority established in 2004 to:

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

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