



EDPS
EUROPEAN DATA PROTECTION SUPERVISOR

EDPS SUPERVISORY OPINION ON THE PROJECT OF CENTRALISED HUMAN RESOURCES ANALYTICS AND REPORTING SERVICES AT THE GENERAL SECRETARIAT OF THE COUNCIL AND THE ESTABLISHMENT OF A DATA WAREHOUSE (Case 2023-0222)

1. INTRODUCTION

1. This Supervisory Opinion relates to the need to conduct a data protection impact assessment (DPIA) concerning the project of the General Secretariat of the Council (GSC) to use centralised human resources analytics and reporting services and to establish a data warehouse.
2. The EDPS issues this own-initiative Supervisory Opinion in accordance with Article 57(1)(g) of Regulation (EU) 2018/1725¹, ('the Regulation').

¹ Regulation (EU) 2018/1725 of the European Parliament and 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, pp. 39-98.

2. FACTS

2.1. Background

3. On 22 February 2022, the GSC informed the EDPS about a Decision No 52/2022 of 30 January 2023 'on centralised Human Resources analytics and reporting services at the General Secretariat of the Council and the establishment of a data warehouse' (the Decision) in accordance with Article 41(1) of the Regulation.
4. The Decision refers to a 'HR Analytics Ethics Charter', which was also transmitted to EDPS.
5. The record of the processing operation is available on the GSC website.²
6. On 24 February 2023, the EDPS asked the GSC to provide the following information:
 - whether the processing has already started and if so, when;
 - whether the GSC carried out a threshold assessment to determine whether a DPIA was necessary under Article 39 of the Regulation; If so, a copy of the threshold assessment;
 - If a DPIA was carried out, a copy of the DPIA; If no DPIA was carried out, any documentation justifying this decision.
7. On 10 March 2023, the GSC provided a note to the EDPS which indicates in particular that:
 - the preparatory phase for launching the data warehouse is ongoing and the products are **not yet in production**
 - they have conducted a threshold assessment and concluded that a **DPIA was not necessary**.

² <https://www.consilium.europa.eu/en/general-secretariat/corporate-policies/data-protection/search/?reference=386R00>.

2.2. Processing envisaged: HR analytics and reporting

2.2.1. Objectives

8. The use of HR analytics and reporting strives to **support policy and decision-making** as well as **daily management**.³ More specifically, HR analytics and reporting should ‘develop descriptive and predictive business insights in various areas, including career, jobholder assignments, recruitments, appraisal, promotion, learning, mobility, and of service mission management that will allow management to take informed action, i.e. to increase efficiency or to address specific issues in the field of HR’⁴.
9. With a view to better **resource allocation and prioritisation**⁵ and in order to facilitate **strategic HR management** as well as to allow the understanding of interactions between different domains⁶, the GSC considers it necessary to analyse the data with a holistic approach by **combining different data sources**.⁷ While the body of the Decision does not list the data sources in question, the recitals mention some sets of data in relation to specific GSC plans/strategies⁸:
 - Psychological Risks Prevention Plan: data on working time, vacancy rate, internal and inter-institutional mobility, staff complaints under Article 90(2) of the Staff Regulations, medical absences, psychosocial support interventions and stress levels;
 - Diversity and Inclusion Strategy and Action Plan for Gender Equality in Management: monitoring of the attainment of the gender equality objective, use of flexible working arrangements, inclusion of staff with a disability, diverse ethnic and racial backgrounds and LGBTI+, lack of age-based discrimination.
10. While managers and HR professionals already have access to detailed and aggregated data either directly in HR information systems or through manual reporting, the new

³ Recital 5.

⁴ Recital 6.

⁵ Recital 1 of the Decision.

⁶ Recital 4.

⁷ Recital 4.

⁸ Recitals 2 and 3. Recital 4 refers more generally to GSC strategic documents and HR policies.

processing, which will produce analytics based on a **single data warehouse**, aims at ‘supplementing and replacing the dispersed information sources that do not provide consistent information or presentation of data’⁹.

2.2.2. Details on the data processing

Purpose

11. HR analytics and reporting aim to **support HR policy decision making and management**. The Decision specifies that HR analytics and reporting shall **not** be used as **the sole or main basis for individual decisions** of the Appointing Authority.¹⁰
12. The record of processing lists **18 specific purposes** of the processing¹¹, all HR and administration related.

Data warehouse

13. The GSC will establish an HR analytics **data warehouse** (the ‘data warehouse’), a computer-based system for **centralised collection and storage of data from different source information systems** to facilitate their use in HR analytics and reporting.¹² It will contain data necessary for the development and delivery of analytics products. The personal data stored in the data warehouse may be imported from various HR information systems in use at the GSC, whether maintained locally or outsourced to processors, including the Commission.¹³ The only purpose of the data warehouse is to provide analytics products.¹⁴

⁹ Recital 8.

¹⁰ Art. 2(1) of the Decision.

¹¹ Section 6 of the record. For instance: HR planning and policy steering, staffing and resource allocation, management of rights and obligations of staff, competencies and skills, management of recruitment and end of service, learning and development, career management, development of policies on equal opportunities and monitoring of working conditions, management of ethics declarations and requests, performance management, etc.

¹² Art. 1(d) of the Decision.

¹³ Art. 3(1) of the Decision.

¹⁴ Art. 3(2) of the Decision.

14. Direct access to the data warehouse is allowed only to services engaged in analytics and reporting on a need-to-know and need-to-do basis.¹⁵

Analytics products

15. Analytics products¹⁶ are defined as any **report or visualisation of data** using the data 'stored in or linked to the data warehouse'¹⁷. These products will be developed and delivered using **business intelligence tools**¹⁸, the list of which will be published on the GSC intranet¹⁹.
16. There are **two main types** of analytics products in terms of handling of personal data²⁰:
- **reports and dashboards** intended for offering a broader view of the data from the perspective of the GSC or its entities and containing **aggregated or anonymised data**;
 - other products created to facilitate **targeted access** to the information, including **personal data** that is already available to the person using the product.
17. For each analytics product, the GSC will determine the **necessity** and the **purpose** of the product, the **source** information systems, the **recipients** of the product and the appropriate **access rights**, and will perform a purpose **compatibility** assessment in accordance with Article 6 of the Regulation.²¹
18. Analytics products can be **distributed for use** by the relevant services involved in HR policy and management or for consultation by general staff, by one or several of the following means:
- mail distribution (mostly in pdf or Excel format);

¹⁵ Art. 3(4) of the Decision.

¹⁶ Art. 3(2) of the Decision.

¹⁷ Art. 1(a) of the Decision.

¹⁸ Art. 2(2) of the Decision.

¹⁹ Art. 4 of the Decision.

²⁰ Section 6 of the record.

²¹ Art. 2(3) and (4) of the Decision.

- published on the in-house reporting server (dashboards); and/or
- DOMUS (intranet portal of the GSC) (links to dashboards and reports stored on internal servers).²²

19. The GSC intends to **publish** an exhaustive list of **available analytics products** on DOMUS²³ and regularly updated²⁴. It is not clear whether *all* analytical products (including those including personal data) will be published or only the *categories* of analytical products.

Categories of data subjects and of personal data²⁵

20. The **data subjects** are:

- GSC staff and their family members (for the latter, only quantitative data on family composition and age ranges will be indicated in the output, no individual details);
- individuals related to the GSC: service providers, Member States delegates and staff members of other EUs.

21. The **categories of personal data** are the following:

- staff identity (names, date of birth, age, place of birth, nationalities, gender, civil status);
- staff type;
- office address, email address, telephone number, personnel number;
- grade, jobholder information including assignment, job types, position, job titles, statutory link, activity rate, job profile, job requirements, management of competencies (based on knowledge, skills, including languages);

²² Section 6 of the record.

²³ Art. 2(8) of the Decision.

²⁴ Section 6 of the record.

²⁵ Section 8 of the record.

- flexible work patterns, time credit, teleworking;
- connection data;
- appraisal, promotion, recruitment, retirement, internal and external transfers or mobility;
- training courses.

22. According to the record, in principle, special categories of data will not be processed or included in the sources used for reporting. In case input is needed on any of such categories (primarily **health data**), adequate safeguards (not specified in the record) will be put in place to process these data and to store in the data warehouse ‘only anonymised and highly aggregated data’.
23. The HR Analytics Ethics Charter excludes the processing of medical data (this is, however, not expressly indicated in the record). The same Charter indicates that the HR analytics teams may process data related to absence and sick leave from time management systems²⁶, which are **special categories of data** (data concerning health)²⁷.

Recipients²⁸

24. The recipients of the source personal data are the staff involved in creating reports and analytical products (HR Projects and Analytics team and Staff Planning and Performance Management sector).

²⁶ *The HR analytics teams may also assist the Medical Service and the Medical Absences Service in setting up analytics for their internal purposes, but no one outside the GSC Medical Service will have access to medical personal data in any form.*

²⁷ *See Art. 3(19) of the Regulation (data concerning health includes information about the health status of an individual. See also EDPS Guidelines on health data in the workplace (2009), p. 2.*

²⁸ *Section 9 of the record.*

25. The reports and dashboards are primarily meant for use by the management of the GSC and its HR services. Analytical products are also created for use by the general staff of the GSC.
26. Where the GSC has a legal obligation to respond to request from the Belgian authorities, other Member States or institutions, existing reports or reports created in response to the request may be shared with them.

Retention²⁹

27. The retention depends on the retention of the source information systems. For products containing personal data, the retention times will match those of the source information systems or specific retention times for statistical and analytical purposes defined in their data protection records but will in any case not exceed 15 years. It is not clear how the retention period will be determined for analytical products combining data with different retention times, if any.

Technical and organisational measures³⁰

28. The **HR analytics and reporting coordinator** will ensure that analytics products are compliant with the Decision and will manage the data warehouse.³¹
29. All staff and services engaged in HR analytics and reporting will adhere to an HR Analytics **Ethics Charter** published on the intranet.³²
30. Detailed tables will be added only in case aggregated fact tables are not fit for the particular purpose. Staff creating analytics products will review the data fields required in the product and unlink or delete any fields that are not relevant.
31. The GSC will consider and implement **pseudonymisation and anonymisation techniques where possible**³³.

²⁹ Section 10 of the record.

³⁰ Section 12 of the record.

³¹ Art. 1(e)

³² Art. 2(8) of the Decision.

³³ Art. 3(5) of the Decision.

32. **No cloud** capabilities of software are used.
33. **Access** to personal data is restricted on a need to know basis and in accordance with the access rights that recipients have in the original data source.
34. The record does not refer to additional safeguards as regards special categories of data.

3. LEGAL ASSESSMENT

35. According to Article 3 of the **EDPS DPIA list decision** of 16 July 2019 (the DPIA list decision)³⁴, when assessing whether their planned processing operations trigger the obligation to conduct a DPIA under Article 39 of the Regulation, the controller shall conduct a threshold assessment. Where two or more of the criteria in the template in Annex 1 of the DPIA list decision are applicable, the controller shall in general carry out a DPIA. If the controller decides not to carry out a DPIA, although more than one criterion is applicable, the controller shall document and justify that decision.
36. In the present case, the GSC takes the view³⁵ that the intended processing only meets **one criterion from the EDPS DPIA list decision**, i.e. **criterion 5**, i.e. 'data processed on a large scale, whether based on number of people concerned and/or amount of data processed about each of them and/or permanence and/or geographical coverage'. Therefore, the GSC considers that they do not have to perform a DPIA.
37. Based on the information provided, the EDPS went through other relevant criteria of the DPIA list decision, as detailed below.

³⁴ https://edps.europa.eu/sites/default/files/publication/19-07-16_edps_dpia_list_en.pdf

³⁵ See GSC note of 7 March 2023.

3.1. Criterion 1 - Systematic/extensive evaluation of personal aspects or scoring, including profiling and predicting

38. According to the GSC³⁶, the aim of the processing is to generate aggregated reports not focusing on natural persons.
39. However, the Decision³⁷ states that HR analytics and reporting ‘shall **not be used as the sole or main basis for individual decisions** of the Appointing Authority/Authority empowered to Conclude Contracts of Employment. Thus, even though it may not be the primary goal of the processing, HR analytics could be used to make individual decisions, even if only as a support. Based on the information available, it is **not clear**, though, whether these individual decisions would be based on a **systematic/extensive evaluation** of personal aspects, as indicated in Criterion 1 of the DPIA list decision.

3.2. Criterion 4 - Sensitive data or data of a highly personal nature: data revealing ethnic or racial origin, political opinions, religious or philosophical beliefs, trade-union membership, genetic data, biometric data for uniquely identifying a natural person, data concerning health or sex life or sexual orientation, criminal convictions or offences and related security measures or data of highly personal nature

40. The GSC affirms³⁸ that the processing operation does not apply to special categories of personal data under Article 10 of the Regulation.
41. However, the record of the processing³⁹ indicates that the sources used for reporting may include input on special categories of special data, and that only anonymised and highly aggregated data will be stored in the data warehouse⁴⁰. Thus, **at least the first step of the processing**, i.e. the selection of source data, **may include special categories of data**. Moreover, the Decision indicates that anonymisation and

³⁶ Page 3 of the GSC note of 10 March 2023.

³⁷ Art. 2(1) of the Decision.

³⁸ Page 3 of the note to the EDPS.

³⁹ Page 5 of the record.

⁴⁰ See above § 22.

pseudonymisation techniques will only be implemented ‘where possible’⁴¹. In addition, for the sake of auditability, GSC will keep the possibility to trace the processing and be able to identify the personal data, (including special categories of data if any) used to generate analytical products.

42. As regards the special categories of data at stake, given that the processing will also monitor policies on diversity, it is likely that not only **data concerning health** (as the latter include administrative and financial data relating to health) will be processed, but also data **revealing racial or ethnic origin** and data on **sexual orientation**.

3.3. **Criterion 6 - Dataset matched or combined from different processing operations performed for different purposes and/or by different data controllers in a way that would exceed reasonable expectations of the data subject.**

43. The GSC argues the data are already used in combination with data inside specialised information systems (training, time management, other SYSPER data) and that the data protection records of the source systems will mention the use of their data for analytics. The GSC concludes that the processing does not exceed reasonable expectations of data subjects.
44. However, the question whether the process exceeds ‘the reasonable expectations of data subjects’ should be assessed *in the absence of any specific measure by the controller*. A specific information of data subjects about the new processing could be a measure to mitigate the risk but should not be used to bypass this criterion from the outset.

⁴¹ Art. 3(5) of the Decision.

3.4. Criterion 7 – Data concerning vulnerable subjects: situation where an imbalance in the relationship between the position of the data subject and the controller can be identified

45. In its note, the GSC indicates that only the personal data of the staff working at the GSC will be processed (which contradicts the record⁴²) and that the data of their children will be processed only in connection with them and will be limited to quantitative data.
46. However, employees are precisely vulnerable data subjects, i.e. data subjects ‘*where an imbalance in the relationship between the position of the data subject and the controller can be identified*’ (wording of criterion 7).

4. CONCLUSION

47. In view of the above, based on the information available, the intended processing does meet not only criterion 5 but seems also to meet criteria 1, 4, 6 and 7, in contradiction with the DPIA list decision and Art. 39(4) EUDPR.

Therefore, the EDPS **deems necessary** that the GSC:

- **deepen the threshold assessment, and further document it;**
- **if this assessment leads to the conclusion that two or more criteria of the DPIA list are met, conduct a DPIA under Article 39 of the Regulation.**

48. In case the GSC conduct a DPIA, in view of the HR nature of the project, it could envisage to seek the views of the staff or their representatives on the intended processing, pursuant to Article 39(9) of the Regulation.

⁴² See above § 20.

49. In light of the accountability principle, the EDPS expects that the GSC **implement the above recommendation** and keep the related documentation at the disposal of the EDPS.

Done at Brussels on 31 May 2023

(e-signed)