

**From:** European Data Protection Supervisor  
**To:** <Fabrice.Leggeri@frontex.europa.eu>  
**CC:** [REDACTED]  
<dpo@frontex.europa.eu>  
**Sent at:** 30/09/16 10:38:16  
**Subject:** Our ref. 2015-0346 D-2062

Dear Sir,

Please find attached a scanned version of a letter (+ annex) sent to you by regular mail today.

Best regards,



**EDPS Secretariat**


Tel. +32 2 283 19 00 | Fax +32 2 283 19 50

✉ [edps@edps.europa.eu](mailto:edps@edps.europa.eu)

**European Data Protection Supervisor**

Postal address: Rue Wiertz 60, B-1047 Brussels

Office address: Rue Montoyer 30, B-1040 Brussels

 [@EU\\_EDPS](https://twitter.com/EU_EDPS)  [www.edps.europa.eu](http://www.edps.europa.eu)

This email (and any attachment) may contain information that is internal or confidential. Unauthorised access, use or other processing is not permitted. If you are not the intended recipient please inform the sender by reply and then delete all copies. Emails are not secure as they can be intercepted, amended, and infected with viruses. The EDPS therefore cannot guarantee the security of correspondence by email.



WOJCIECH RAFAŁ WIEWIÓROWSKI  
ASSISTANT SUPERVISOR

Mr Fabrice LEGGERI  
Executive Director  
Frontex  
Plac Europejski 6  
00-844 Warsaw  
POLAND

Brussels, 30 September 2016  
WW/OL/sn/D(2016)2062 C 2015-0346  
Please use [edps@edps.europa.eu](mailto:edps@edps.europa.eu) for all  
correspondence

**Subject: Follow-up PeDRA - your reference 8646/26.04.2016**

Dear Mr Leggeri,

Thank you for your letter of 3 May 2016 as well as for the further information provided by Frontex' DPO on 3 August 2016.

Please find attached the follow-up table summarising the state of play for the different recommendation made in our Opinion of 3 July 2015. The table only covers the recommendations which were still open following the letter sent to you on 18 December 2015.

As you will see, almost all recommendations have been closed. For the sole remaining recommendation, please report back by 16 December 2016.

Yours sincerely,

Wojciech Rafał WIEWIÓROWSKI

Cc: [REDACTED]x

Annex: Follow-up table for remaining recommendations



Recommendation	Frontex Action	EDPS Assessment
<p>1. Only transfer personal data to Europol when this is necessary and proportionate on a case-by-case basis;</p> <p>2. Define a methodology for assessing the necessity and proportionality of transfers to Europol and update the other relevant documents accordingly;</p>	<p>Implemented in Implementing Rules adopted on 18 December 2015.</p>	<p>Ok, <b>recommendations closed</b>, as announced in follow-up letter of 8 December 2015</p>
<p>3. Pending an amendment of the Frontex Regulation in line with the standards of Article 10(4) of the Regulation so as to provide a clear legal basis for the processing of data on ethnic origin, provide appropriate safeguards against the use of ethnic data for discrimination;</p>	<p>Implemented in Implementing Rules adopted on 18 December 2015, see Article 14(5)(b). The system is not searchable by ethnicity.</p>	<p>Ok, <b>recommendation closed</b>.</p>
<p>4. Not process personal data on sexual orientation;</p>	<p>Implemented in Implementing Rules adopted on 18 December 2015: forbidden by Article 9(1) of Implementing Measures.</p>	<p>Ok, <b>recommendation closed</b>, as announced in follow-up letter of 8 December 2015</p>
<p>5. Ensure adequate monitoring of data quality and follow-up on any issues detected;</p>	<p>Implemented in Implementing Rules adopted on 18 December 2015, e.g. Article 5, 14 and 21.</p>	<p>Ok, <b>recommendation closed</b>, as announced in follow-up letter of 8 December 2015</p>
<p>7. Ensure that sanitisation completely anonymises the data;</p>	<p>Sanitisation of personal data performed. Deletion of personal effective where applicable.</p>	<p>OK, <b>recommendation closed</b></p>
<p>8. further explain the necessity for the</p>	<p>Archived data are securely kept</p>	<p>Article 11c(4) of the Frontex Regulation establishes a clear maximum</p>

Recommendation	Frontex Action	EDPS Assessment
archive, especially in the light of the clear conservation period established by Article 11c(4) of the Frontex Regulation;	separately and are no longer available in analytical systems. They will only be accessed when necessary for cooperating with judicial authorities or for data subject access requests, not for analytical purposes. Frontex will inform the EDPS when archived data are accessed (PeDRA risk analysis, p. 16; action table p. 8).	<p>period for the conservation of personal data received from the Member States and further processed in PeDRA. Frontex provided several reasons for further conservation beyond that limit:</p> <ol style="list-style-type: none"> <li>1. Replying to data subject access requests; however, the right of access only applies to the personal data actually held by an EU institution and is not in itself a reason for keeping personal data for longer periods.</li> <li>2. Cooperation with judicial authorities; according to the explanation given, the main aim here is to prove that certain transactions have or have not taken place.</li> <li>3. Non-repudiation of transactions; it appears that the main reason is to prove that certain transactions have taken place. This is a valid reason for keeping information, but not necessarily for keeping all personal data, as there are ways to prove this without keeping the actual personal data transmitted.</li> </ol> <p>Frontex should develop a solution that fulfils its needs for proof / non-repudiations of transactions without keeping the actual personal data (e.g. keeping transaction logs and hashes of personal data packages). <b>Recommendation remains open.</b></p>
9. Provide a privacy statement covering the elements of Article 12 of the Regulation on its website;	Statement published: <a href="http://frontex.europa.eu/assets/About_Frontex/Data_Protection/Privacy_Statement.pdf">http://frontex.europa.eu/assets/About_Frontex/Data_Protection/Privacy_Statement.pdf</a>	Ok, <b>recommendation closed</b> , as announced in follow-up letter of 8 December 2015
10. Document internally all cases in which a restriction under Article 20 of the Regulation is applied, including the reasons for the restriction.	See Article 17 of Implementing Rules adopted on 18 December 2015.	Ok, <b>recommendation closed</b>
11. Provide the detailed security requirements analysis to the EDPS as soon	Full risk assessment provided based on recognised	Ok, <b>recommendation closed</b>

Recommendation	Frontex Action	EDPS Assessment
<p>as it is available, with a description of the measures to be implemented; this detailed analysis should consider all points made in the notification and further detail what security measures would be implemented to limit the risks to a level acceptable by Frontex management.</p>	<p>international standard.</p>	