



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

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 Council, represented for the purposes of signature of this Memorandum of Understanding by the European Data Protection Supervisor, Mr Wojciech Wiewiórowski; and
 - The European Union Agency for Cybersecurity (ENISA), established by Regulation (EU) 2019/8812, of the European Parliament and of the Council, represented for the purposes of signature of this Memorandum of Understanding by its Executive Director, Mr Juhan Lepassaar;
2. Under Article 52 of Regulation (EU) 2018/1725, the EDPS is the 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 Union institutions, bodies, offices and agencies.
3. Under Title II of Regulation (EU) 2019/881, ENISA is the Union's agency dedicated to achieving a high common level of cybersecurity across Europe. The Agency acts as a reference point for advice and expertise on cybersecurity for Union institutions, bodies, offices and agencies as well as for other relevant Union stakeholders.

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 Regulation (EU) 2019/881 of the European Parliament and of the Council of 17 April 2019 on ENISA (the European Union Agency for Cybersecurity) and on information and communications technology cybersecurity certification and repealing Regulation (EU) No 526/2013 (Cybersecurity Act), OJ L 151, 7.6.2019, p. 15–69.

II. Purpose

4. This Memorandum of Understanding has been agreed in recognition of the common interest of EDPS and ENISA to cooperate more in areas of mutual interest. Building on earlier exchanges, it aims to establish, define and promote a structured cooperation in accordance with and subject to their respective statutory tasks and powers under Union law.
5. This Memorandum of Understanding does not affect in any way the tasks and powers of the EDPS as a supervisor of the processing of personal data by ENISA as an EU Agency, nor does it affect in any way the duties of ENISA as a data controller or data processor under Regulation (EU) 2018/1725 and as an independent Agency under Regulation (EU) No 2019/881. This Memorandum of Understanding does not impact activities and duties that either party carries out under Union law.

III. Strategic Cooperation

6. EDPS and ENISA agree to establish a strategic cooperation in areas of common interest with a view to addressing issues of common concern such as cybersecurity aspects of personal data protection.
7. EDPS and ENISA agree to put forward a strategic plan on promoting awareness, capacity, cyber-hygiene and privacy and data protection stand of institutions, bodies, offices and agencies of the Union. This strategic plan will aim to promote a joint approach to cybersecurity aspects of data protection as well as to the adoption of privacy enhancing technologies, and strengthen the capacities and skills of the aforementioned institutions, bodies, offices and agencies of the Union. Further element useful to establish the strategic plan are defined in Annex A.
8. As part of the strategic plan, EDPS and ENISA agree to consider designing, developing and delivering capacity building and awareness raising activities in areas of common interest and contributing jointly to similar activities organised by other bodies. Within the scope of each activity, EDPS and ENISA will address aspects within their area of expertise.
9. EDPS and ENISA aim to meet at least once a year to review matters related to the strategic plan, to identify further areas of cooperation, and in order to exchange views on main current and forthcoming challenges for cybersecurity and privacy and data protection, including security of personal data processing and management of personal data breaches, data protection by design and by default and privacy by design, privacy enhancing technologies and privacy engineering and as well as analyses of emerging technologies, foresight methods and topic-specific assessments on the expected societal, legal, economic and regulatory impact of technological innovations.
10. EDPS and ENISA agree to appoint 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.
11. EDPS and ENISA agree to exchange the contact details of the contact points and to inform each other without undue delay in writing of any change concerning the contact points.

IV. On current specific areas of cooperation

12. ENISA will in particular continue its involvement in the EDPS activities relating to supporting privacy and data protection engineering and privacy enhancing technologies such as the EDPS IPEN network, supporting the organisation of the IPEN workshops back-to-back to ENISA's Annual Privacy Form (APF) and providing relevant contributions where appropriate. EDPS will in particular continue to support the ENISA's APF at an appropriate level of participation and throughout a consolidated partnership for the organisation of the IPEN workshops back-to-back to ENISA's APF.
13. EDPS and ENISA 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.
14. EDPS and ENISA agree to exchange information on upcoming activities on emerging technologies of mutual concern and exchange views on forthcoming opinions and guidance of common strategic interest, as deemed relevant by the parties.
15. EDPS and ENISA agree to invite each other to relevant expert meetings and where appropriate collaborate in research activities.

V. Expenses

16. EDPS and ENISA 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.

VI. Confidentiality

17. EDPS and ENISA each undertake to keep any information, document or other material communicated to them as confidential, and not to disclose such confidential material to third parties without the prior written consent of the originating Party. This is without prejudice to the obligations of ENISA and EDPS to comply with Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents.³
18. EDPS and ENISA agree to respect all security measures related to the protection of EU classified information.

³ OJ L 145, 31.5.2001, p. 43–48.

VII. Entry into force, duration and revision

19. This Memorandum of Understanding shall enter into force on the day following its signature by EDPS and ENISA.

20. This Memorandum of Understanding is signed for an initial period of [five] years and may be renewed by mutual agreement between EDPS and ENISA.

EDPS and ENISA may by mutual agreement at any time amend or supplement this Memorandum of Understanding. Any such amendments or supplements or terminations will be in writing.

Done in Brussels on 30 November 2022

(signed)

For ENISA
The Executive Director

(signed)

For EDPS
The European Data Protection Supervisor

ANNEX A – Establishing the strategic plan

A.1. The strategic plan provided for in Article 7 of this MoU will aim to set and prescribe the objectives to be achieved by joint activities and synergies for the next three years in areas of common interest.

A.2. EDPS and ENISA will meet on an annual basis in order to identify and agree on the specific activities and synergies to be undertaken. Each Party may propose a number of activities and also indicate the scope, objectives, timeframe of implementation as well as the anticipated resources that may be required by each Party for delivery of each activity.

A.3. The final activities and synergies will be agreed in writing and both Parties will mutually agree on the scope, objectives, timeframe and resources required.

A.4. During the planning and the execution of each activity, regular meetings may be set up in order to monitor the progress, identify risks and relevant mitigation measures.