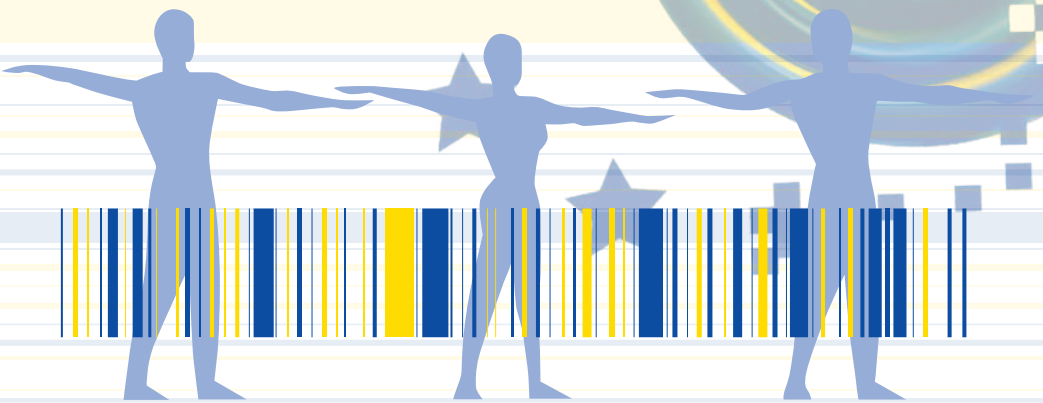
European Data Protection Supervisor

The EDPS: Supervising EU institutions and bodies & enforcing data protection principles

EDPS factsheet 3



www.edps.europa.eu

Every institution processes personal information. It might be yours...

Every day, **personal information** is processed within the EU administration. Recruiting and procurement activities, staff appraisals, the collection of health data in medical files, the setting up of time management systems, CCTV and access to EU buildings are but a few examples.

When EU institutions and bodies process **personal data**, they must **comply** with the principle of **accountability** and the obligations set out in the **EU Data Protection Regulation 45/2001**. They must be able to **demonstrate** this compliance.

Why is this necessary?

If the personal information held about you by one of the European Institutions is inaccurate, out of date or disclosed to the wrong person, the damage caused to you may be quite serious. You could be unfairly refused a professional contract, mistaken for somebody else, blamed for unauthorised disclosure of information, or even become a victim of identity theft.

Everyone is entitled to protect their personal information. Data protection is a fundamental right, protected by European law and enshrined in **Article 8** of the **Charter of Fundamental Rights of the European Union**.

More specifically, the rules for data protection when the EU institutions and bodies process personal data are set out in **Regulation (EC) No. 45/2001**.

What is the role of the EDPS?

The EDPS is the European Union's **independent** data protection authority. We **monitor** and ensure the **protection of personal data and privacy** when EU institutions and bodies process the personal information of individuals.

We **advise** EU institutions and bodies on all matters relating to the **processing** of **personal information**. We are **consulted** by the EU legislator on proposals for legislation and new policy development. We **monitor** new technology that may affect the protection of personal information. We **intervene** before the Court of Justice of the EU to provide expert advice on interpreting data protection law. We also **cooperate** with national supervisory authorities and other supervisory bodies to improve **consistency** in protecting personal information.

In our supervisory role, we **monitor and ensure** that the EU institutions **comply** with data protection rules; we hold the EU administration **accountable** for this compliance and promote



Keep your personal information up-to-date

a 'data protection culture' within the institutions. We do so in close cooperation with the Data Protection Officers (DPOs) in each EU institution or body.

How does the EDPS monitor and supervise?

The EDPS has a number of **compliance monitoring tools** to assist in these tasks:

- **Prior checking**

Where an EU institution or body intends to process personal data in processing operations that present **specific risks**, for example 'early warning systems', such as databases used for anti-fraud purposes in procurement, or asset freezing operations, they must first notify these to the EDPS for *prior checking*. The aim is data protection **by design** i.e. build data protection into the design and architecture of the operation. In most cases, this prior checking exercise leads to a set of **recommendations** from the EDPS that helps the EU institution or body to comply with data protection rules once the operation is in place.

- **Consultations on administrative measures**

EU institutions and DPOs can **consult** the EDPS for advice when drawing up measures or internal rules that involve the processing of personal information, if they are complex or may result

in considerable risks to the rights and freedoms of individuals. We have issued **Opinions** on a diverse range of subjects such as the publication of personal data on the internet, the internal use of email, the transfers of personal data to third countries and the billing of individual users for non-work related phone calls. The EDPS has issued a **policy paper** to guide EU institutions and bodies as to when they must consult us.

- **Cooperation with DPOs**

In order to monitor compliance, the EDPS relies heavily on the DPOs of the EU institutions and bodies. Each EU institution has at least one DPO to ensure that the EU data protection Regulation is applied and a register of **DPO appointments** can be found on our website. The tasks, duties and powers of the DPO and the respective implementing rules are outlined in **guidelines** published by the EDPS. To support them in these tasks, we also run a dedicated **DPO corner** on our website. In addition to bilateral meetings and contacts with the DPOs, we also take part in the regular meetings of the DPO network and offer tailor-made training.

- **Awareness raising**

The EDPS publishes **thematic guidelines** on core issues of data protection to serve as reference documents for the EU administration. These issues include:

– Staff recruitment;
– Health data at work;
– Administrative inquiries and disciplinary proceedings;
– Tasks, duties and powers of the DPO;
– Video-surveillance;
– Anti-harassment procedures;
– Staff evaluation.

We also offer **workshops** on topical issues as well as regular **training** activities for DPOs and Data Protection Coordinators (DPCs).

- **Horizontal monitoring and reporting exercises**

In order to ensure an adequate overview and to gather statistics to benchmark and compare the performance of EU institutions and bodies, we carry out general **monitoring and reporting exercises**, such as periodic surveys on their compliance with Regulation (EC) 45/2001 and our more recent survey on the status of DPOs.

- **Monitoring compliance**

In addition to general stock taking exercises, we can carry out targeted monitoring exercises where, as a result of our supervision activities, the EDPS has concerns about the level of compliance in specific institutions and bodies. Some of these are correspondence-based while others take the form of a one day visit to the institution or body concerned to address the shortcomings.

For fact finding, the follow-up of cases and for monitoring of compliance in general, we can also carry out **inquiries** and **inspections** (general, thematic, targeted) on our own initiative.

- **Enforcement**

Where monitoring is simply not enough to ensure compliance, the EDPS can rely on his **enforcement powers** set out under Article 47 of Regulation (EC) 45/2001. Among other things, these include the right to impose a ban on a particular data processing operation.

- **Complaints**

If you think that your rights have been infringed by an EU institution or body processing your personal information and you have not been able to settle this with the institution concerned or its DPO, then you can lodge a complaint with the EDPS to investigate. A **complaint form** is available on our website.

If your complaint is admissible, the EDPS will carry out an inquiry as appropriate, communicate the findings to you and ensure that the necessary measures are adopted by the institution.

The EDPS is **not** competent for issues on a national level and has no supervisory powers for handling complaints on the processing of personal information by national authorities or private entities.

EDPS key figures - 2012

- **71 prior-check opinions adopted, 11 non prior check opinions**
- **86 complaints received, 40 admissible**
- **27 consultations received on administrative measures**
- **15 on-the-spot inspections and 6 visits carried out**
- **1 set of guidelines published** on the processing of personal information in the area of leave and flexitime

Glossary

- **Personal information or data**: Any information relating to an identified or identifiable natural (living) person. Examples include names, dates of birth, photographs, e-mail addresses and telephone numbers. Other details such as health data, data used for evaluation purposes and traffic data on the use of telephone, email or internet are also considered personal data.
- **Data processing**: Any operation or set of operations performed upon personal data, whether or not by automatic means, such as collection, recording, organisation, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, blocking, erasure or destruction.
- **DPO / DPC**: A Data Protection Officer (DPO) is appointed by every EU institution and body. The DPO has the duty to ensure, in an independent manner, the internal application of the provisions of the Data Protection Regulation (EC) 45/2001. Some EU institutions have appointed a Data Protection Coordinator (DPC) for each of their substructures (e.g. for each Directorate-General at the European Commission).
- **EU institutions and bodies / EU administration**: all institutions, bodies, offices or agencies operating for the European Union (e.g. European Commission, European Parliament, Council of the European Union, European Central Bank, specialised and decentralised EU agencies).
- **Accountability**: Under the accountability principle, EU institutions and bodies put in place all those internal mechanisms and control systems that are required to *ensure compliance* with their data protection obligations and should be able to *demonstrate* this compliance to supervisory authorities such as the EDPS.

Further reading

- **Art. 41(2) of Regulation (EC) 45/2001**
- **Art. 46 of Regulation (EC) 45/2001**
- **Art. 47 of Regulation (EC) 45/2001**

Data Protection Regulation: Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ 2001 L 8, p. 1).

- EDPS Prior checking opinions
- EDPS Opinions on administrative measures
- EDPS complaint form
- EDPS policy paper on consultations
- EDPS thematic guidelines
- EDPS general and targeted monitoring and reporting exercises

All the EDPS documents listed in this section are available on the EDPS website: www.edps.europa.eu

@EU_EDPS

QT3012768ENC
doi 10.2804/46507

ISBN 978-92-95076-04-4

Publications Office