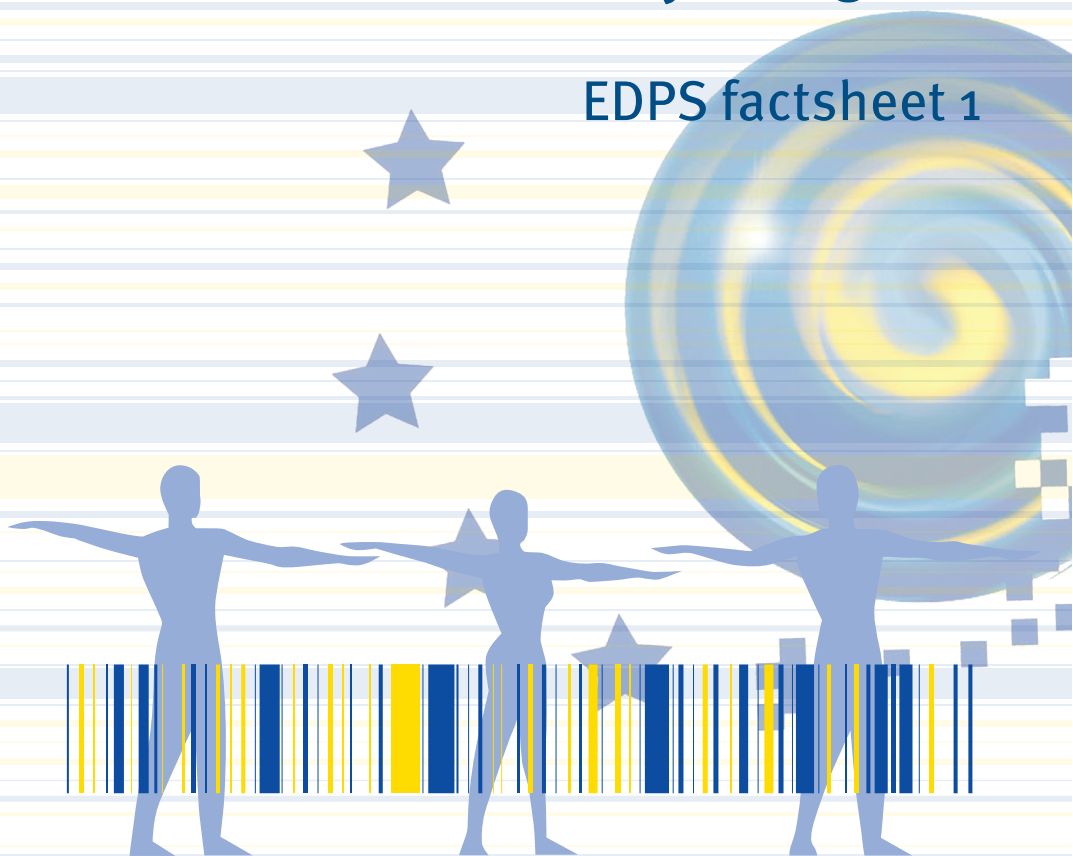




EUROPEAN DATA
PROTECTION SUPERVISOR

Your personal information and the EU administration: What are your rights?

EDPS factsheet 1



► www.edps.europa.eu

Everyday, personal information – also known as personal data – is processed within the EU administration. Recruiting activities, contract tenders, complaints or requests for information, video surveillance are a few examples.

If such information is inaccurate, out of date or disclosed to the wrong person, the damage caused to you may be quite serious.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 victim of an identity theft.

Everyone is entitled to protect their personal information. In fact, 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. The Charter contains three main elements: 1) obligations on those processing personal information (for example, EU institutions or bodies), 2) rights of persons whose information is being processed and 3) supervision by an independent authority (in this case, the EDPS). More specifically, the protection of personal data within the EU institutions and bodies is contained in Regulation (EC) No. 45/2001. This factsheet focuses on the rights of individuals mentioned in point 2) above and on how you can make the best use of your rights under the Regulation.

— What are your rights?

You are entitled to know whether an EU institution or body is processing information about you; you must be given, either in advance or as soon as it has been registered, information that includes which body or institution is processing the data, the purpose of the processing operation, the recipients of the information and your rights as the person whose information is being processed.

You are also entitled to check the information related to you which is being processed and obtain, free of charge:

- **access** to your personal information, for example a copy of the data concerned and to some information concerning the processing, for instance the purpose of the processing, the recipients to whom it is disclosed, etc.
- the **rectification** of inaccurate or incomplete personal information;
- the **blocking of information** under certain circumstances, for example, when the accuracy of it is in question;
- the **erasure** of the information if its use is unlawful, for example, if the information is no longer relevant, or if sensitive information is processed where this is not allowed;



- the **notification to third parties**, to whom the information has been disclosed, of any rectification, erasure or blocking;

You are entitled to object at any time, on **compelling and legitimate grounds**, to the processing of the information related to you.

You also have the right to be informed before your information is disclosed for the first time to third parties — or before it is used on their behalf — for direct marketing purposes. You are entitled to object to such disclosure or use.

— What can I do in the event of a problem?

1. **Notify the EU institution** or body responsible for processing and ask them to take action.
2. If you obtain no reply or if you are not satisfied with it, **contact the data protection officer (DPO)** of the institution or body concerned (<http://www.edps.europa.eu/EDPSWEB/edps/Supervision/DPOnetwork>).
3. You can also **lodge a complaint with the EDPS**, who will examine your request and adopt the necessary measures (see EDPS website for details).

Your complaint will, in principle, be inadmissible if you have not first contacted the institution concerned in order to redress the situation. A complaint submission form is available on the EDPS website under the Supervision section.

4. You can also bring an action before the Court of Justice of the European Union.

— Restriction of your rights

In specific circumstances, your rights may be restricted – but they cannot be withdrawn. This limitation may take place, for a determined period of time and only if necessary, to safeguard:

- the prevention, investigation, detection and prosecution of criminal offences (including disciplinary proceedings and administrative enquiries). This could apply, for example, to investigations carried out by the European Anti-fraud Office (OLAF) or the Commission's Investigation and Disciplinary Office (IDOC);
- an important economic or financial interest of a Member State or of the European Union;
- you or the rights and freedoms of others;
- national security, public security or defence of the Member States.

If a restriction applies, you have to be informed of the reasons for the restriction and of your right to recourse to the EDPS. If it makes the policy for applying the restriction ineffective, you may not be provided with this information straightaway, for instance, if giving the information risks destruction of evidence in an investigation. This is determined on a case-by-case basis.

If you have been denied access to your information and ask the EDPS to investigate your complaint, the EDPS will, following the investigation, inform you whether the information has been correctly processed and, if not, advise you of what instructions he has given the institution or body concerned to correct the processing and also outline to you the next steps.

— What does the EDPS do to uphold your data protection rights?

The EDPS is an independent supervisory authority responsible for ensuring that the fundamental right to the protection of personal information is respected by the European institutions and bodies, for example, by supervising the processing (collection, use, transfer, etc.) of personal information by the EU administration, as well as ensuring that data protection safeguards are incorporated in EU legislation and policies, whenever relevant.

- You may ask the EDPS for **advice** on how to exercise your rights;
- You may ask the EDPS **to investigate a complaint**: if you think that your data protection rights have been infringed by the EU administration, you can lodge a complaint with the EDPS. If necessary, the EDPS can recommend the EU institution or body concerned to adopt specific measures to protect your rights. The EDPS will inform you of the outcome;

A complaint to the EDPS can **only** relate to the **processing of personal information**. The EDPS is not competent to deal with cases of general maladministration, to modify the content of the documents that the complainant wants to challenge or to grant financial compensation for damages. The processing of personal information which is the subject of a complaint must be carried out by **one of the EU** institutions or bodies.

- The EDPS **conducts enquiries and inspections**, on his own initiative or on the basis of a complaint, when it is necessary to obtain more information on the processing of personal information;
- The EDPS can **order** that requests to exercise certain rights in relation to personal information be complied with where such requests have been refused in breach of your rights;
- The EDPS can **warn or admonish** the European institution or body which is unlawfully or unfairly processing your personal information;
- The EDPS can **impose** a temporary or definitive **ban** on processing;
- The EDPS can **refer a case** to the Court of Justice of the European Union.

To help him investigate a complaint, the EDPS is entitled to obtain all personal data and all information necessary for his enquiries from the EU institution or body concerned. He can also access the premises of any EU institution or body should an on-the-spot investigation be needed.


___ What is next?

In January 2012, the European Commission made proposals for a thorough revision of the rules on data protection which currently apply to the EU Member States (e.g. Directive 95/46/EC). These proposals include some additional rights, such as the “right to be forgotten” and to “data portability”, that seem to be particularly useful in the online environment. The revised rules are currently being debated within the Parliament and the Council. It is likely that this revision will also lead to the amendment of Regulation (EC) No. 45/2001.

Glossary

- **Personal data:** any information relating to an identified or identifiable natural person. An identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identification number or to one or more factors specific to his or her physical, physiological, mental, economic, cultural or social identity. Examples of information about a natural (living) person which can be used to identify that person 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 the 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.
- **Data controller:** The EU institution or body determining the purposes and means of the processing of personal data.
- **DPO:** Each institution or body has a data protection officer. It is duty of the DPO to ensure in an independent manner that the internal application of the Regulation and that the rights and freedoms of the data subjects are not likely to be adversely affected by the processing operations. A list of data protection officers can be found on the EDPS website. <http://www.edps.europa.eu/EDPSWEB/edps/Supervision/DPOnetwork>
- **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).
- **Sensitive data:** includes data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, trade-union membership and the processing of data concerning health or sex life. The processing of such information is in principle prohibited, except in specific circumstances.
- **Right to be Forgotten:** the right to have personal data erased and no longer processed, where the data is no longer necessary for the purposes for which the data was collected or processed, where the individual(s) has withdrawn his or her consent for the processing or objects to the processing of personal data concerning him or her, or where the processing of their personal data does not comply with EU rules. This right is particularly relevant, when the individual has given their consent as a child, when not being fully aware of the risks involved by the processing and later wants to remove such personal data especially on the internet.
- **Data portability:** the right to transfer one's personal data from one automated application, such as a social network, to another without being prevented from doing so by the controller.

Further reading

- **Articles 13 to 19 of Regulation (EC) No 45/2001** on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data
- See the EDPS website for more information: www.edps.europa.eu
-  @EU_EDPS.

