



# Data Protection A Guide for Users



EUROPEAN PARLIAMENT



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# Introduction

This is a guide for users of data protection – which means anyone involved in data protection either as a person whose data are processed, or as someone doing the processing.

The European Parliament engages in a wide range of data processing operations. This guide sets out to explain the principles governing that processing and especially to make it easier for persons whose data is processed to exercise their rights.

Data protection is guaranteed at the level of the Treaties: since the Treaty of Amsterdam, the Treaty establishing the European Community has provided for data protection to apply to the European institutions. The Charter of Fundamental Rights of the European Union also recognises the right to protection of personal data

at Article 8. Regulation (EC) No 45/2001 sets up the mechanisms for protecting personal data processed in the Community institutions and clarifies the rights of persons whose data are processed.

The Data Protection Service of the European Parliament has a mission to inform data subjects and data controllers about their rights and responsibilities. This guide is intended to introduce the basic ideas in this area. More information, including legislative texts, is available on the website, the address of which is given at the end of this guide.



# Data protection standards - making a difference in the European Parliament



There is more and more information being processed about – and indeed by – each of us. Even items that are banal or trivial in themselves can be aggregated and associated with other items in a way that can be intrusive.

Regulation (EC) No 45/2001 is intended to protect the liberties and fundamental rights of individuals with respect to the processing of personal data about them.

**The Regulation sets out to facilitate the free movement of data under conditions that respect the rights of individuals and their legitimate expectation of privacy.**

The Regulation provides for an institutional architecture to ensure that its provisions are respected. This includes an independent supervisory authority as well as a Data Protection Officer in each institution.

The rules set out in this Regulation apply to any personal data processing in the European Parliament. All data processing operations (such as collection, consultation, transfer, sorting, etc.) are subject to notification to the Data Protection Officer. The notification is then entered into a public Register maintained by the Data Protection Officer. The fact that data processing is carried out – but obviously not the data themselves – is therefore public.

So one of the principal objectives of the Regulation is to give legally enforceable rights to individuals whose data are processed – data subjects.

Data subjects may be Members of the European Parliament, staff, visitors or other persons about whom the institution holds data, such as petitioners.





## Data protection – the actors

### The primary players in data protection

The central figures in the architecture of data protection are the data subject and data controller.

You are a **data subject** if any personal data about you are processed by the European Parliament. So data subjects include not only Members of the European Parliament and officials and other staff but also other persons, such as visitors or petitioners, about whom data are collected or otherwise processed.

The **data controller** – the entity that determines the means and purposes of processing – is the first line of defence for data subjects. The data controller is responsible for the security of the information processed, and is the contact point for requests by data subjects to exercise their rights.

### Data protection oversight

There are two actors overseeing data protection matters:

The independent supervisory authority – the **European Data Protection Supervisor** – ensures the consistent application of data protection legislation to all institutions of the European Union. He/She monitors the data processing operations of the institutions and gives them advice on how to respect data protection legislation, so as to ensure compliance with human rights and fundamental freedoms.

The European Parliament's **Data Protection Officer** is at your disposal for advice and information. He/She can give opinions and make recommendations for improving data protection in the European Parliament. The Data Protection Officer also maintains a public register of data processing operations.

# Data protection – the background

## What is meant by personal data?

Any information about a natural person (i.e. a human being) can be personal data. If an individual is identified by name, or by an identifier, it is probable that the information processed is personal data. An identifier could be a unique number or even features of an individual's identity, such as physical, economic or social characteristics. So sound recordings or images are also personal data – if a person can be identified.

Some categories of data require special attention. These are:

- data revealing racial or ethnic origin;
- political opinions;
- religious or philosophical beliefs;
- trade union membership;
- data about health or sex life.

Personal data in the form of paper records as well as data processed by electronic means are subject to the Regulation.

Personal data are to be kept for a period no longer than necessary for carrying out the purpose for which they were collected.



## What is a processing operation?

Almost anything that can be done to personal data constitutes a processing operation. Collecting, sorting, consulting, diffusing data are all examples of kinds of processing, as are erasing or destroying data.



# How does data protection affect me?

## What personal data can be processed?

Personal data – any data about an identified or identifiable natural person – may include names, dates of birth, photographs, e-mail addresses or other details such as identity numbers. The processing of such data needs to be justified by reference to a specific purpose.

Data processing may be justified by either necessity (to carry out a contract or meet another legal obligation) or by the consent of the data subject. The data processed must be up to date and not excessive for the purpose of processing. The purpose of processing must be determined in advance of collection. Unless a change of purpose is explicitly authorised by internal rules, the purpose of processing may not be altered subsequently.

Any data processed must be adequate, relevant and not excessive in relation to the purposes of processing. In other words, the data controller may not collect more data than necessary for the purpose in question.

Moreover, data must be updated as necessary. As well as ensuring that data are up-to-date, the data controller must allow data subjects access to their data.





How can I find out what data about me are being processed?

The data controller has to give certain information when the data are collected. This information includes the identity of the data controller, the purpose of processing, any recipients of the data and the existence of the rights of access and of rectification.

The Data Protection Officer keeps a public register of processing operations, based on notifications received from data controllers. This register enables you to find out which administrative entity is keeping what information about you.

Can personal data about me be communicated to others?

**Under certain conditions, personal data may be transferred to recipients either within or outside the institutions of the European Union. As regards transfers within or to other Community institutions or bodies, the data must be necessary for the legitimate performance of tasks within the recipient's competence, among other conditions.**

Another set of conditions govern transfers to recipients covered by national legislation transposing Directive 95/46/EC: such recipients may be Member State authorities or private bodies. If a transfer to a recipient not subject to the Directive (that is, outside the EU) is envisaged, special conditions apply.



# Rights and obligations

The data subject enjoys certain rights and the data controller has certain obligations under the Regulation.

## What are my rights as a data subject ?

The rights granted to data subjects are the central pillar of the data protection Regulation. Having access to your data opens the door to exercising other rights such as rectification. The rights include:

- access to your personal data, free of charge, and without constraint, within three months;
- rectification of inaccurate or incomplete personal data;
- blocking data processing in certain circumstances;
- erasure of unlawfully processed data;
- the right to object to a processing operation on compelling grounds.

To exercise your rights, address yourself directly to the data controller. To assist you, you can find contact details for the data controller in the Register as well as a form to help you state your request on the Data Protection Service's web site, the address of which is given at the end of this guide.

You may also consult the Data Protection Officer for an opinion on processing operations either concerning you or carried out by you. Contact details are at the end of this guide.



## What are my obligations as a data controller ?

The data controller's primary duty is to identify data processing operations he or she carries out and to notify them to the data Protection Officer. Notification should take place before the operation is undertaken. Operations already under way should be notified as soon as possible.

As mentioned previously, the data controller also has a responsibility to furnish certain information to data subjects. The data controller must also facilitate data subjects' access to their data and their exercising other rights such as rectification and erasure.

The data controller must also ensure that appropriate security measures are in place, and issue appropriate instructions to ensure confidentiality if data are processed by others (for example, by a sub-contractor).

Furthermore, in the event of a transfer of data, the controller has to check that the requirements of the Regulation (such as the necessity of the transfer) have been met.

## How to submit a notification ?

The notification form is to be found under "Forms" on the Data Protection Service's Intranet site. Please fill it in, sign and date it and send it as a paper version and by e-mail to the address given. The Data Protection Service will acknowledge your notification.



# What **remedies** do I have?

## Can I complain?

If you think that your rights have been infringed you may lodge a **complaint** directly with the European Data Protection Supervisor.

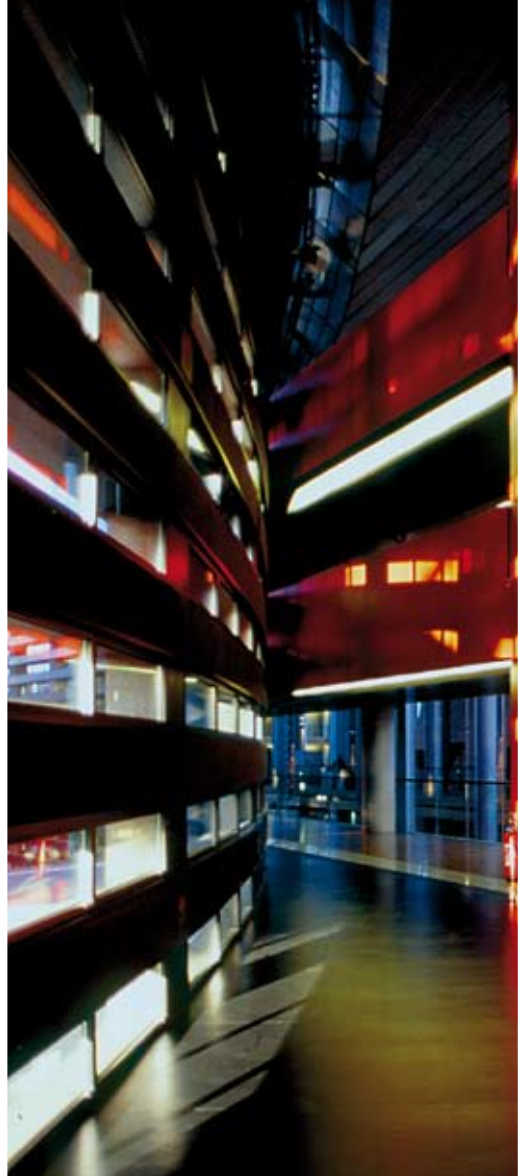
Officials and other staff of the European Parliament may lodge a complaint with the Supervisor without going through the hierarchical channels.

In the absence of a response within six months, it is possible to bring an **action**, including claims for damages, before the Court of Justice of the European Communities.

Web site of the European Data Protection Supervisor

Further information is available at:

[www.edps.europa.eu](http://www.edps.europa.eu)





## Where to find further information and materials ?

### Web site

The Data Protection Service's Intranet site is your gateway to the public register of data processing operations, and also contains a wealth of information about data protection as well as forms for use by data subjects and controllers.

There are useful links to data protection authorities in the Member States and other jurisdictions as well as to other sources of information in other institutions and bodies.

If you want to find out more about data protection and information security, training can be organised.

[www.europarl.ep.ec/services/data\\_protect](http://www.europarl.ep.ec/services/data_protect)

# Glossary of useful expressions



- **Data Protection Officer**

The Data Protection Officer is the official responsible for ensuring, in an independent manner, the internal application of the provisions of the Regulation and keeping a register of data processing operations.

- **Purpose of processing**

Any data processing must be carried out for specified, explicit and legitimate purposes: data collected or processed must be adequate, relevant and not excessive in relation to the purposes for which they are collected and/or further processed.

- **Notification**

Prior notice given to the Data Protection Officer of any personal data processing operation. The information to be given includes an indication of the data controller, the purposes of the processing, the legal basis, the categories of data subjects concerned, and any recipients of the data.

- **Regulation (EC) No 45/2001**

Regulation on data protection applicable to the Community institutions and bodies. Not to be confused with Directive 95/46/EC addressed to Member States.

- **Processing of personal data**

Any operation performed upon personal data, whether or not by automatic means, such as collection, recording, organisation, storage, alteration, retrieval, consultation, use, dissemination, blocking, erasure or destruction.

- **Controller**

The Community institution or body, the Directorate-General, the unit or any other organisational entity which alone or jointly with others determines the purposes and means of the processing of personal data.

- **Special categories of data**

These are any personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, trade-union membership, or concerning health or sex life. The processing of such data is in general prohibited, albeit with certain exceptions.

- **Data subject**

Any identified or identifiable natural person, data about whom are processed, is a data subject.

# 10 major points

## 1. Lawfulness

Personal data are to be processed in accordance with law, which in effect means that processing must be either necessary or consensual.

## 2. Purpose

Any data processing must be carried out for specified, explicit and legitimate purposes. These purposes may not, in principle, be subsequently changed.

## 3. Consent

Consent is a powerful element in the structure of data protection, which can provide a basis for almost any processing operation. It must be informed and freely given.

## 4. Information

Data subjects have a right to receive certain information (such as the purpose of processing) about processing concerning them when the data are collected.

## 5. Data Quality

Data collected and processed must be adequate, relevant and not excessive in relation to the purposes of collection. Moreover, they must be accurate and up-to-date.

## 6. Multiple safeguards

Anyone may ask the Data Protection Officer for an opinion at any time. There is a right to complain to the European Data Protection Supervisor and, finally, the possibility of action before the Court of Justice of the European Communities.

## 7. Data transfers

Data transfers are subject to certain conditions depending on the status of the recipient – whether within the EU institutions, subject to EU member state law or outside the EU altogether.

## 8. Right of Access

Any data subject has the right of access to his or her personal data. This important right opens the door to exercising other rights such as the right of rectification.

## 9. Security

The level of security applied to processing and keeping data must be appropriate with regard to the potential risks to data subjects.

## 10. Notification

Data processing operations notified to the Data Protection Officer are published in a public register.

# Useful addresses

DATA PROTECTION OFFICER OF THE  
EUROPEAN PARLIAMENT

**Jonathan STEELE**

European Parliament  
KAD 06B006

☎ +352 4300 24864

L - 2929 LUXEMBOURG

E-mail : [Data-Protection@europarl.europa.eu](mailto:Data-Protection@europarl.europa.eu)

INDEPENDENT SUPERVISORY BODY

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