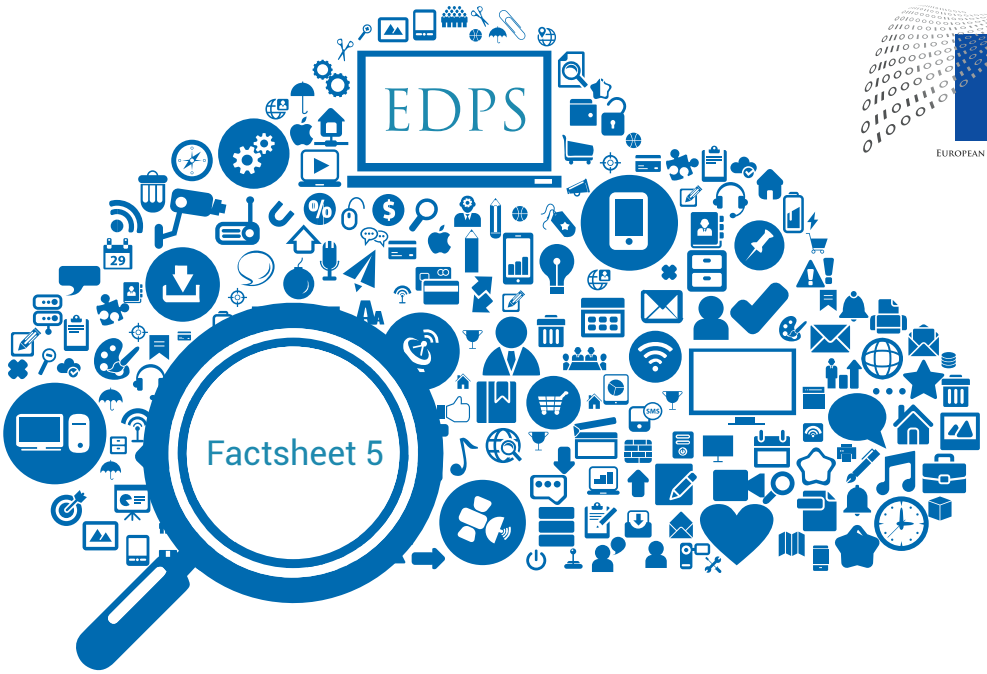

WHAT TO EXPECT WHEN WE INSPECT

What is the EDPS?

The European Data Protection Supervisor (EDPS) is the EU's independent data protection authority. We monitor and ensure that the EU institutions and bodies comply with EU data protection rules when they process 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. EU administration is obliged to not only **comply** with the data protection rules outlined in **Regulation (EC) No. 45/2001**, but to **demonstrate** their compliance. As the data protection authority of the EU institutions, it is the job of the EDPS to ensure they do this.

In accordance with the EDPS Rules of Procedure, the EDPS holds the EU administration **accountable** for compliance with data protection rules and encourages those responsible to promote a data protection culture within their respective institutions.

Inspections are one of the tools used by the EDPS to ensure compliance with the Regulation. During an inspection, we are able to **verify compliance on-the-spot**, and identify recommendations for improvement.

How do we decide who to inspect?

We carry out inspections in accordance with our Annual Inspection Plan. To establish this plan, we conduct a risk analysis and take into account the resources available for carrying out inspections. Security audits of large scale IT systems and applications take place according to the laws governing their supervision.

Although we reserve the right to inspect at random, we consider a variety of factors when deciding which EU institutions and bodies to inspect. These include:

- the categories of data they process (e.g. health data are particularly sensitive);
- the number of complaints we receive about a particular EU institution or body;
- whether the EU institution regularly transfers data and to whom;
- compliance of the EU institution with previous EDPS decisions;
- the EU institution's overall history of cooperation with the EDPS.

What does an EDPS inspection involve?

1. The institution or body to be inspected is usually informed at least four weeks in advance. At this time, the institution or its Data Protection Officer (DPO) may be asked to provide certain information and documents to the EDPS.

2. During an inspection, we meet the staff members responsible for processing data at the institution and request information or demonstrations. The results of these meetings, interviews and demonstrations, as well as any evidence collected, are recorded in the EDPS **inspection minutes**, which are then submitted to the inspected EU institution or body for comments. Ensuring compliance means that we need to make sure that all recorded facts are correct. By consulting the EU body concerned, there is a chance for everyone involved to flag any misunderstanding about what actually happened.

3. Following an inspection, the EDPS always provides appropriate feedback to the institution concerned. This takes the form of an **inspection report**, containing a road-map for implementing **recommendations where necessary**. Whilst the EDPS does not publish details of the report, we regularly report on inspection activities in our Annual Reports and other publications. The EDPS always follows up on whether our recommendations have been **implemented in line with the roadmap**.

How might you be involved in an inspection?

The EDPS tries to combine inspections with information sessions on data protection, organised in cooperation with your institution's DPO. If you receive an invitation to attend a **data protection training** we encourage you to join us!

If you are a **staff member responsible for performing one of the processing operations** under inspection, we might ask you to meet us for an interview or an on-the-spot demonstration. You will usually receive this request via your DPO, who will also issue you with a privacy statement, containing further information. Please note that all members of our staff, including EDPS inspectors, are subject to strict **confidentiality obligations**.

You should know that all **EU institutions and bodies are obliged to assist the EDPS inspectors** upon request. The obligation to assist us also applies to you as a staff member. We might therefore ask you to provide certain information and explanations, to grant us access to personal data and to your premises and to allow us to collect evidence. We know that assisting us in this way will increase your usual workload, so we try to minimise the disruptive impact we have on staff members as much as possible. Only in exceptional circumstances will EDPS inspectors search premises and evidence themselves. This might be because there is a lack of adequate cooperation from staff or the institution or because competent staff are unavailable.

What rules apply?

The rules applicable to the processing of personal data by the EU institutions and bodies are set out in **Regulation (EC) No. 45/2001**.

Articles 41(2), 46(c) and 47(2) of the Regulation are applicable to inspections. They grant the EDPS extensive powers to access any information, including personal data, necessary for his inquiries, as well as the right to access any premises where the controller (the EU institution or body) carries out its activities.

According to Article 30 of the Regulation, controllers are obliged to assist the EDPS in the performance of his or her duties upon request, particularly by providing information (Article 47(2)(a)) and by granting access (Article 47(2)(b)). Any institution selected for inspection should therefore permit the EDPS

inspectors to carry out their duties.

Article 36 of the EDPS Rules of Procedure sets out the main steps of an inspection. To further clarify what to expect, the EDPS has developed an Inspection Policy and Inspection Guidelines.

Further reading

- **Inspection Policy**
- **Inspection Guidelines**
- **Press release Brussels CCTV inspection**
- **Press release Luxembourg CCTV inspection**
- **Articles 41(2), 46(c) and 47(2) of Regulation (EC) 45/2001**: Powers of the European Data Protection Supervisor when carrying out inspections
- **Article 30 of the Regulation**: Obligation of controllers to assist the EDPS
- **Articles 15(3) and 36 of the EDPS Rules of Procedure**

All EDPS documents listed in this section are available on the EDPS website