

NEWSLETTER

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DATA PROTECTION OFFICERS

HIGHLIGHTS

Opening a new Chapter for Data Protection

On 27 July 2015, as the European Data Protection Supervisor sent his recommendations to the EU co-legislators negotiating the final text of the General Data Protection Regulation (GDPR), he launched a *mobile app* to compare the latest texts from the Commission, the Parliament and the Council more easily on tablets and smartphones.

"Privacy and data protection matter more than ever to people. For the first time in a generation the EU has an opportunity to modernise, harmonise and simplify the rules on how personal information is handled. These rules must be relevant for the next generation of technologies. As part of my remit to be proactive and constructive, my recommendations aim to support the co-legislators to get a better deal for the

individual, to make safeguards more effective in practice and enable them to benefit from technological innovation. The GPDR is not the reform of my dreams but I firmly support the institutions in the last mile to achieve the best possible outcome: improvements are still feasible."

Giovanni Buttarelli, EDPS **EDPS** Recommendations EDPS Press Release

EU Data Protection Reform: a historic opportunity for Europe

The reform of EU data protection rules is a historic opportunity to adopt future-oriented standards that can inspire countries all around the world, said the European Data Protection Supervisor (EDPS) to the European Parliament's Committee on Civil Liberties, Justice and Home Affairs (LIBE) on the presentation of his Annual Report 2014.

Europe has long been the flag bearer with its data protection law and there are areat expectations for this to continue with the reformed rules. As the European Union grapples with a range of economic difficulties facing its member countries, the EU Data Protection Reform is an opportunity for hope. Europe

must seize the opportunity to be at the forefront in shaping a global standard for privacy and data protection, a standard centred on the rights and the dignity of the individual.

Giovanni Buttarelli, EDPS EDPS Annual Report 2014 **EDPS Press Release**

Healthcare on the Move

technology revolutionising the healthcare market, offering opportunities to benefit the global population with a variety of healthcare needs, said the European Data Protection Supervisor (EDPS) following the publication of his Opinion on Mobile Health (mHealth) on 21 May 2015. However, as a society we should take care to identify and support solutions which first and foremost serve individuals and respect their choices. Such solutions should

not only be technically feasible but also be ethically tenable and foster trust.

We live in a world where our digital lives can be acutely analysed. Today, the division between information about our health and information about the rest of our digital lives is disappearing: technology solutions allow devices and apps to connect the dots between different data about us such as location, nutrition and medical.

We can put a lot of trust in technology companies to do the right thing with our personal information and to make our lives easier. But we need to have a critical debate about the uses of our personal information that are and are not acceptable to us and encourage developers to prioritise consumer trust over short term gains.

Giovanni Buttarelli, EDPS EDPS Opinion EDPS Press Release

Calling in for a culture of data protection

The EDPS Strategy 2015-2019 emphasises the importance of effective cooperation with the EU institutions and bodies we monitor. With this in mind, the EDPS and Assistant EDPS have a programme of visits for July 2015 which includes ESMA, OHIM and Frontex.

Visits are a valuable compliance tool for the EDPS, which help to promote the development of a data protection culture within an institution. A visit is an opportunity to establish

direct relationships with senior management and engage them in an active commitment to improving data protection practice.

Each visit is specifically tailored to the needs of the individual agency. We follow-up on the results of previous monitoring activities, such as previous EDPS compliance visits or inspections and assess progress made implementing

recommendations. For example, in our visit to ENISA in June 2015, we focused specifically on the ENISA inventory and



their register of processing operations and data protection impact assessments - an agenda designed to support the

agency's work in the data protection-sensitive area of information security. In each visit we also aim to promote accountability and the integral role of the *DPO* in ensuring compliance. Some visits are also an opportunity to provide training to staff on how best to implement data protection rules in practice. For EDPS staff, visits are a way of deepening our knowledge of the individual agencies and better understanding their needs

Visits allow us to raise awareness of data protection among staff and management in the EU institutions. In this way, we are able to increase compliance with EU data protection rules and ensure that, in the data protection arena, the EU institutions continue to lead by example.

Bordering on privacy

Frontex's operational role is expanding due to a new procedure on the use of personal data in risk analysis (PeDRA).

In late 2011, the Frontex Regulation was changed to allow the agency to process the personal data of anyone suspected of being involved in facilitating irregular immigration, human trafficking, or other cross-border criminal activities. The processing of personal data related to victims of human trafficking and smuggled migrants remains prohibited.

The relevant data, collected by member states working on Frontex activities, can be used for two

purposes, outlined in Article 11c of

- 1. For risk analysis. In this case no personal data will be made
- 2. For transfer of personal data to

In the second case, the Regulation states that any decision to transfer

data to Europol must be made on a case-by-case basis. In our Opin of 3 July 2015 we highlighted the importance of this point. Frontex plans to group the personal data it receives from the member states under criteria such as location, crime or organised crime group before transferring it.

EDPS Opinion



Hands-on data protection healing

The EDPS Strategy 2015-2019 highlights the importance of training EU bodies on how best to respect data protection rules in practice. In line with this, three EDPS staff members visited the European Centre for Disease Prevention and Control (ECDC) in Stockholm on 2 June 2015 to conduct a training session with Human Resources and IT staff.

As well as addressing their specific HR and IT related issues, we explained the legal framework under which the EDPS operates. We took an

interactive approach, which allowed us to provide staff with direct feedback on their data processing practices and advise them on how to effectively implement adequate data protection safeguards.

In line with our strategic aims, we plan to carry out further training sessions over the course of the year. We hope to use these trainings to raise awareness and improve the already high standards of data protection practice across the EU institutions and bodies.



Putting the Strategy into practice: the EDPS meets DPOs

On 8 May 2015, the EDPS met EU Data Protection Officers (DPOs) at the European Investment Fund in Luxembourg. DPO meetings take place twice a year and have been a regular fixture in the EDPS calendar since 2004. At these meetings, DPOs share experiences from their respective institutions with one other. They are also an opportunity for the EDPS to present his policies and activities to DPOs.

We strongly believe in and value our cooperation with our data protection partners, DPOs and DPCs (data protection coordinators). We support them and rely on them to act as a relay. These relationships are

especially important for us in the context of the EDPS Strategy 2015-2019, which calls on the EDPS to continue to support EU institutions in moving beyond a purely compliancebased approach to one that is also based on accountability. working in close cooperation with DPOs to achieve this. Our objective at the meeting in May, therefore, was to launch a new and innovative

format for these meetings, making them more dynamic, interactive and efficient. We organised interactive workshops where DPOs were given the opportunity to discuss challenging issues and receive hands-on advice on how to deal with certain matters in practice. Topics of discussion included the mobile devices guidelines, accountability, security of processing, and the role of the

> DPO in the context of complaints.

The new format proved very successful and, in light of the positive feedback we received, we plan to organise the up-coming meeting in Athens this November in a similar fashion.

The EDPS springs into action

On 30 April 2015, the EDPS launched its fifth Spring Survey. The Survey takes place once every two years. It assesses the progress made by all EU institutions and bodies in the implementation of EU data protection rules, allowing us to identify problems and take specific actions to address them.

As part of the Survey we also identify specific hot topics on which to carry out research. This time, we aim to learn more about international transfers of personal data, information security measures,

the effective deletion of personal data and the relationship between institutions and their DPOs.

The Spring Survey is one of the tools the EDPS uses to monitor compliance with EU data protection rules. More information on this and our other monitoring activities can be found in our policy paper Monitoring and Ensuring Compliance with Regulation (EC) 45/2001. The results of the 2015 Spring Survey will be published later this year.

EDPS Policy Paper



Exclusion procedures should not exclude data protection

European Investment Bank (EIB) is obliged to declare individuals who have engaged in serious professional misconduct, such as fraud or corruption, as ineligible for certain privileges, such as the award of a contract under an EIB project. This process is designed to protect the financial interests and reputation of the institution as well as the EU in general. This means that the individual concerned is registered in the Central Exclusion database, operated by the European Commission.

In order to ensure the protection of personal data in this procedure, we adopted an *Opinion* on 19 March 2015.

We advised on the appropriate retention period for the data in question. We also provided recommendations on how to strengthen data subject rights and stressed the need to ensure the quality of data in transfers to and from international financial institutions

EDPS Opinion



360° feedback from the EDPS

The European Parliament's 360° Feedback tool for managers is a voluntary programme intended to provide feedback to middle managers on their leadership competencies.

In our Opinion of March 2015, we advised the Parliament that the notification and the privacy statement which accompany the feedback tool should clearly specify the tasks and responsibilities of the private companies contracted to provide the service. These documents should also make it clear that consent, once given by the user, applies whenever the tool is used, in whatever capacity. We pointed out that both the privacy statement and the notification should indicate an adequate purpose for the

generation of group reports. These reports list general statistics related to the group of managers under assessment and although theoretically anonymous, they carry the risk of revealing personal information if the sample size on which they report is small.

We advised the Parliament that, providing these recommendations were taken into account, the proposed tool would not breach EU data protection rules.

EDPS Opinio



CONSULTATION

EDPS policy priorities for 2015

Every year, the EDPS publishes a list identifying the EU legislative proposals which are most relevant to our work. The proposals on this list are those which the EDPS aims to monitor and consult on. Through our work, we aim to exert a positive influence on EU lawmakers, ensuring that the fundamental right to privacy and data protection remains at the heart of EU policy.

On 19 May 2015, we published two documents containing our priorities. *The first document* sets out our strategic priorities for legislative consultation in 2015. *The second* identifies relevant Commission proposals and other documents which have recently been adopted or are due to be adopted soon and which require the attention of the EDPS.

These priorities closely reflect those outlined in the *EDPS Strategy 2015-2019*, including legislation related to the Digital Single Market, international affairs and internal security.

EDPS Priorities



And now for the travel news...

The EDPS was asked by the Commission to provide comments on a *Delegated* Regulation relating to the provision of EU-wide real-time traffic information services. It was introduced as a supplement to Commission *Directive 2010/40/EU* and aims to define what is needed to ensure that the road and traffic data used to provide real-time traffic information services is accessible and reusable and can be updated and exchanged across EU borders.

Our *Comments* of 21 January 2015 welcomed the proposals put forward by the Commission. We praised the text for upholding the principles of purpose limitation, data minimisation and data quality in several of its articles and for assigning the same level of protection to all data, regardless of the method and source of collection.

On 17 April 2015, however, the Commission issued a *Corrigendum* concerning the Annex to the

text. In the original version, the Annex provided an exhaustive list of the data that could be

shared, which we praised for upholding the data minimisation principle. However, in the



Corrigendum a subtle change in wording implied that this list was not actually exhaustive and therefore member states would be at liberty to make their own additions to the list, which could not be checked in advance by

This triggered us to adjust one of the comments we had made in our original letter. We underlined that any new data that might be added to the list must comply with all the requirements set forth in the Delegated Regulation, in particular those relating to data protection and security. This includes respecting the data minimisation principle, which requires that data should be adequate, relevant and not excessive in relation to the purposes for which it is collected and processed.

EDPS Comments
Corrigendum

Parliament, petitions and personal data

On 24 March 2015, the EDPS pleaded before the General Court of the European Union in a *Case* concerning the handling of petitions by the European Parliament. The plaintiff accused the Parliament of having unlawfully published his personal data on the European Parliament website when handling his petition.

The EDPS intervened in support of the plaintiff. We reaffirmed that data

protection applies in the context of all political activities conducted by the European Parliament, including the publication of petitions. In particular, we observed that the Parliament's own Rules of Procedure do not require that the petitions submitted to it be published in full. In the view of the EDPS, with sensitive health data at stake, the Parliament should have provided the petitioner with specific details

about how his information would be published and informed him that he could submit a redacted text for publication. Furthermore, the EDPS argued that Parliament should also have evaluated the risks associated with publishing personal data related to someone other than the petitioner. In this case, personal data relating to the health of the petitioner's son should not have been published.

As the Parliament website is indexed by external search engines, all personal information published there is vulnerable to wide, possibly irreversible, and decontextualised dissemination in the public domain. The Parliament's approach should have been to find a balance between transparency and data protection. A decision on this case is expected later in the year.



Safe Harbor and surveillance

On 24 March 2015, the EDPS intervened before the Court of Justice of the European Union (CJEU) at the hearing of Case T-343/13 (Max Schrems, Europe v Data Protection Commissioner). The EDPS is not admitted to intervene in preliminary ruling procedures, therefore the EDPS is not a party to the case. However, the Court is entitled to ask the EDPS to submit observations on the case in its role as advisor to the European institutions on data protection.

The case was originally brought to the Irish Data Protection Commissioner. The complaint related to transfers of personal data by Facebook Ireland Ltd. to the servers of its US parent company, Facebook Inc. The complainant argued that personal data transferred to the US in the context of the *Safe Harbor framework* is not adequately protected. He drew on the recent

revelations of mass surveillance as evidence to support his argument. As the Irish DPA considered itself unable to act on the Safe Harbour decision, the complainant took his case to the High Court of Ireland, which referred a number of questions to the CJEU.



In our observations to the CJEU, we made the following points:

- There have long been doubts about Safe Harbor; despite the Article 29 Working Party's consistent criticisms on a number of weaknesses, these have not yet been resolved;
- The reach and scale of surveillance may be so broad that Safe Harbor fails to respect the essence of the fundamental right to privacy and data protection enshrined in the Charter of Fundamental Rights;
- Independent data protection authorities have the power

to determine what actions are necessary to ensure a fair balance between privacy and the protection of personal data and, in the present case, disruption to the internal market.

We concluded that the only effective solution to this case would be the negotiation of an international agreement providing adequate protection against indiscriminate surveillance, including obligations on oversight, transparency, redress and data protection rights. A decision on the case is expected soon.



EDPS and ENISA: technology for privacy

The European Data Protection Supervisor (EDPS) and the European Agency for Network and Information Security (ENISA) will strengthen their cooperation and join their forces in promoting privacy and security enhancing technologies in Europe

This was the main message of the strategic meeting that took place in Athens on 19 June 2015, between EDPS Giovanni Buttarelli and the Executive Director of ENISA Udo Helmbrecht. The aim of the meeting was to define common action fields and synergies in technology for privacy, a topic on which both institutions have common interest and expertise.



Data protection goes mobile

On 6 May 2015, the EDPS launched a consultation process with EU institutions and bodies. We asked for comments on our *draft guidelines* on the protection of personal data on mobile devices used by the EU institutions.

The EDPS Strategy 2015-2019 outlines the importance of increasing the accountability of EU bodies processing personal information. In practice this means helping them not only comply with EU data protection rules but to be able to clearly demonstrate their compliance. To ensure that our guidelines support them in this, we asked for comments on both their content and format, with a view to providing a practical document which can be readily applied in the workplace.

The consultation process consisted of a structured, open dialogue with the EU institutions.

The guidelines are aimed at *Data Protection Officers* (DPOs), IT and IT security staff and provide practical advice on the processing of personal data via mobile devices. They also include a toolbox with guidance on how to carry out the risk management process.

In addition to the formal consultation, the draft guidelines were also presented and discussed at the *EDPS meeting with DPOs* on 8 May 2015. The EDPS will now work on incorporating the feedback from the consultation process into the final document



Intelligent data protection for Intelligent Transport Systems

The European Commission organised its fifth Conference on Intelligent Transport Systems in Brussels on 24 April 2015. Ensuring high quality data is one of the most important building blocks for the future development and deployment of the Cooperative Intelligent Transport System (C-ITS) and the importance of ensuring that the C-ITS framework complies with

data protection legislation was noted by all present.

Speaking at the conference, Assistant Supervisor Wojciech Wiewiórowski, outlined the privacy risks associated with the use of C-ITS services. In particular, he mentioned the possible challenges of safeguarding data quality and security and of facilitating accountability and purpose limitation. He also



highlighted the importance of ensuring that the principle of transparency and the fundamental right to data protection are upheld. He recommended that particular attention be given to facilitating privacy by design, defining roles and responsibilities, identifying security concerns and informing users about the collection, storage and usage of their personal data.

Be aware... Connect with care

Are you ready for your summer holiday? Be sure to enjoy a well-

earned rest but remember that cyber-safety shouldn't take a

break when you do. The European Data Protection Supervisor provides you with some tips on how to *stay safe online*.



Competition Rebooted: Enforcement and Personal Data in Digital Markets, 24 September 2015

On 24 September 2015, the EDPS and the European Academy of Law will hold a workshop in Brussels, entitled *Competition Rebooted: Enforcement and Personal Data in Digital Markets*.

The workshop will focus on a range of topics related to market analysis, personal data and privacy

and competition law enforcement. It aims to provide competition law practitioners with an insight into new developments in the field and to deepen understanding of the growing role of data in competition law.

For more information and to register visit the *ERA website*.



Engineering privacy: second IPEN Workshop

The second Workshop of the Internet Privacy Engineering Network (IPEN) took place in Leuven on 5 June 2015. It was hosted by the Interdisciplinary Centre for Law and ICT at the Catholic University of Leuven, sponsored by the PARIS project (PrivAcy pReserving Infrastructure for Surveillance) and supported by the PRIPARE project.

Around 70 people attended the workshop to discuss four main topics: the status of European and world-wide standardisation

efforts; the importance of teaching privacy to future professionals and how this could be successfully achieved; web tracking, with a focus on user control over online tracking and social plug-ins; and risk management and design in privacy engineering.



The fruitful meeting concluded with participants calling for a follow-up workshop to be held soon. Suggestions for possible topics included an in-depth session on health devices, follow-up actions on initiatives related to standardisation and a session on incentives for developing privacy friendly solutions.

A report on the workshop will be available online soon. For more information on IPEN, please visit

Italian DPA presents Annual Report for 2014

On 23 June 2015, the Italian *Data Protection Authority* (DPA), Garante, presented its *Annual Report for 2014*. The event was held in the presence of the Italian President, Sergio Mattarella and attended by EDPS, Giovanni Buttarelli (pictured together here).

In line with the aims outlined in the EDPS Strategy 2015-2019, the

EDPS will continue to develop and improve cooperation with national DPAs, such as the Garante. We aim to ensure that the EU speaks with a united voice on the international stage, leading by example in the field of data protection and privacy.



Spring Conference, Manchester, 18-20 May 2015

From 18 to 20 May 2015, the UK's Information Commissioner's Office (ICO) hosted the European Conference of Data Protection Authorities. The Conference took place in Manchester and focused on the topics of cooperation, data subject rights, as well as roles and responsibilities of data protection authorities and data controllers.

The Spring Conference, as it is known, marks a key date in the EDPS calendar. European Data Protection Supervisor, Giovanni Buttarelli, used the conference as an opportunity to update our



European colleagues on the work and priorities of the EDPS.

Speaking at the conference, Buttarelli focused on the goals outlined in our *EDPS Strategy 2015-2019*. He stressed the importance of cooperation and 'active partnership' between the EDPS and its fellow DPAs. With specific reference to the data protection reform, he emphasised that speaking with one voice on EU data protection is the best way to ensure that the opinions of EU data protection authorities are heard at the legislative level.

He also stressed the importance of DPAs leading by example in the way we handle personal information and perform our supervisory duties. In doing so, our decisions and opinions will gain more weight and credibility, allowing us to increase our influence, both within the EU and at the global level.

The conference was considered a success, resulting in two resolutions, both of which can be found on the *EDPS website*. For more information on the conference, please consult the *ICO's report*.

On 27-28 April, Brussels hosted the 2015 *Cybersecurity & Privacy Innovation Forum*. The Forum is an opportunity for projects funded by the EU's Trust & Security research programme to better coordinate and collaborate. It proved a particularly valuable experience for the *Internet Privacy Engineering Network (IPEN)*.

European Data Protection Supervisor Giovanni Buttarelli gave a *keynote speech* at the Forum. Drawing on the *EDPS Strategy 2015-2019*, he stressed the need for policy and technology experts to work together to tackle future cybersecurity challenges effectively and ensure data protection guarantees. He used IPEN as an example, referring to the initiative's necessary 'tangible contributions' to technological

innovation in both cybersecurity and privacy.

He also emphasised the importance of *accountability* in this process, because compliance with data protection rules provides the foundation for technological security. He stressed that the role of accountability in data protection must be clearly defined in the forthcoming data protection reform



SPEECHES AND PUBLICATIONS

- "Presentation of the EDPS 2014 Annual Report", speech (PDF) by Giovanni Buttarelli given at the meeting of the LIBE Committee in the European Parliament (2 July 2015)
- Speaking notes (PDF) from the speech on mHealth by Wojciech Wiewiórowski given at the General Assembly of Association Internationale de la Mutualité (23 June 2015)
- "Trade agreements and data flows", speech (*PDF*) by Giovanni Buttarelli given at the Joint Hearing of the INTA and LIBE Committees in the European Parliament (16 June 2015)
- "Anti-fraud investigations and data protection in the EU", speech (*PDF*) by Giovanni Buttarelli given at the European Anti-Fraud Congress (5 June 2015)
- "The Digital Single Market, data protection and the role of the EDPS to 2020", speech (*PDF*) by Giovanni Buttarelli given at Brussels Matters (21 May 2015)
- "Big data, big data protection: challenges and innovative solutions", keynote speech (*PDF*) by Giovanni Buttarelli given at the ERA Conference on Recent Developments in Data Protection Law (11 May 2015)
- "Value of the EU data protection reform against the big data challenges", keynote address (*PDF*) by Giovanni Buttarelli given at the 5th European Data Protection Days (4 May 2015)
- Keynote address (*PDF*) by Giovanni Buttarelli given at the Cybersecurity and Privacy Innovation Forum 2015 (28 April 2015)
- "Washington Meetings Program and the Digital Cyberspace Policy Program: A Conversation with Giovanni Buttarelli", speech (*PDF*) by Giovanni Buttarelli given at the Council on Foreign Relations (10 March 2015)
- Speech (*PDF*) by Giovanni Buttarelli given at the Annual Dinner organised by the Center for Democracy and Technology (10 March 2015)
- "EDPS Strategy 2015-2019", speech (*PDF*) by Giovanni Buttarelli given at the occasion of the presentation of the EDPS Strategy 2015-2019 (2 March 2015)
- "Antitrust, Privacy and Big Data", speaking points (PDF) of Giovanni Buttarelli for a seminar on competition, privacy and big data (3 February 2015)



Leading by Example: EDPS Strategy 2015-2019

On 2 March 2015, the new European Data Protection Supervisor (EDPS) unveiled his Strategy for 2015-2019 to senior representatives of the EU institutions. Following his appointment on 4 December 2014, Giovanni Buttarelli summarised the objectives for his five-year mandate and the actions his Office will take to turn his vision into reality. His presentation hosted at the European Commission, was followed by remarks from Commission First Vice-President, Frans Timmermans and Chair of the European Parliament's Committee on Civil Liberties, Justice and Home Affairs (LIBE), Claude Moraes.

This is a crucial moment for data protection, a period of unprecedented change and political importance, not only in the EU but globally. Our aims and ambitions for the next five years build on our strengths,

successes and lessons learned. Together with our legal and technological expertise, we are uniquely placed to assist the EU to find effective, practical and innovative solutions that will respect our fundamental rights in the new digital world. Our goal is for the EU to speak - in full cooperation with colleagues at national level - with one voice on data protection, a voice which is credible, informed and relevant.

Giovanni Buttarelli, EDPS



DATA PROTECTION OFFICERS

Recent appointments

- Juliano Franco, European Ombudsman
- Massimo Attoresi, European Data Protection Supervisor
- · Barbara Eggl, European Central Bank
- Kate Bousfield-Paris, Agency for the Cooperation of Energy Regulators
- Francesca Marcon (Acting DPO), European Asylum Support Office
- Athena Bourke (DPO), Ingrida Taurina (Deputy DPO), European Network and Information Security Agency
- Esther Molinero, European Union Satellite Centre
- · Andrea Iber, European Centre for Disease Prevention and Control
- Milos Prvulovic (deputy DPO), European Aviation Safety Agency
- Barbara Eggl, European Systemic Risk Board
- Jari Ahola (Acting DPO), European Institute of Innovation and Technology

See full list of DPOs

About this newsletter

This newsletter is issued by the European Data Protection Supervisor (EDPS) – an independent EU authority established in 2004 to:

- monitor the EU administration's processing of personal data;
- give advice on data protection legislation;
- cooperate with similar authorities to ensure consistent data protection.

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CONTACTS

www.edps.europa.eu
Tel: +32 (0)2 2831900
Fax: +32 (0)2 2831950
NewsletterEDPS@edps.europa.eu

POSTAL ADDRESS

EDP:

Rue Wiertz 60 – MTS Building B-1047 Brussels BELGIUM

OFFICE ADDRESS

Rue Montoyer 30 B-1000 Brussels BELGIUM

Follow us on Twitter:

@EU EDPS

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