



EDPS
EUROPEAN DATA PROTECTION SUPERVISOR

EDPS SUPERVISORY OPINION ON DRAFT INTERNAL RULES CONCERNING RESTRICTIONS OF CERTAIN RIGHTS OF DATA SUBJECTS IN RELATION TO PROCESSING OF PERSONAL DATA IN THE FRAMEWORK OF THE FUNCTIONING OF THE EUROPEAN CYBERSECURITY INDUSTRIAL, TECHNOLOGY AND RESEARCH COMPETENCE CENTRE (Case 2023-0681)

1. INTRODUCTION

1. This Supervisory Opinion relates to the draft internal rules concerning restrictions of certain rights of data subjects in relation to processing of personal data in the framework of the functioning of the European Cybersecurity Industrial, Technology and Research Competence Centre ('ECCC') of 15 June 2023.
2. The EDPS issues this Supervisory Opinion in accordance with Article 41(2) of Regulation (EU) 2018/1725¹, ('the Regulation').

2. FACTS

3. The ECCC formally consulted the EDPS on draft internal rules on restrictions of data subject's rights in relation to processing of personal data in the framework of the functioning of the ECCC ('draft internal rules') on 15 June 2023.

¹ Regulation (EU) 2018/1725 of the European Parliament and the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC, OJ, L 295, 21.11.2018, pp. 39-98.



3. LEGAL ANALYSIS

4. The EDPS welcomes that the ECCC has made comprehensive use of the draft internal rules provided as Annex II to the [EDPS Guidance on Article 25 of the Regulation 2018/1725 and internal rules restricting data subjects rights](#) ('EDPS draft internal rules').
5. The EDPS also welcomes that the ECCC will only restrict data subject's rights under Article 25 of the Regulation based on the proposed draft internal rules, which provide a legal basis thereto. As these restrictions seek to temporarily render unavailable certain rights that lie at the heart of the right to data protection, their legal basis should be well defined. In this regard, it appears to the EDPS that the draft internal rules are duly limited to the types of processing operations the ECCC performs or expects to perform and that each type of processing operation is linked to its specific ground(s) for restriction under Article 25(1) of the Regulation.
6. The EDPS further welcomes that ECCC will perform a necessity and proportionality test on a case-by-case basis before restrictions are applied, under Article 2(3) of the draft internal rules, and that Article 2(4) of the draft internal rules provides for the obligation to document the application of restrictions.
7. As noted in the [Report](#) on the EDPS Remote Audit of Internal Rules Restricting Data Subjects' Rights under Article 25 of the Regulation, regarding the timing of the DPO's involvement, Article 5 of the EDPS draft internal rules entitled "Involvement of the Data Protection Officer" contained in the [EDPS Guidance](#) is not particularly explicit on involving the DPO *before* the controller actually takes the decision to restrict data subject rights in a particular case. However, the EDPS would like to highlight that Recommendation R6 of the EDPS Guidance clearly states the following: "Consult the DPO *before* and during the restriction" (emphasis added). The EDPS is confident that the ECCC is going to implement Article 5(1) of the draft internal rules with this in mind.

4. CONCLUSION

The EDPS welcomes the draft internal rules as submitted and expects the ECCC to adopt the draft internal rules accordingly. The EDPS has decided to close the case.

Done at Brussels on 28 June 2023

[e-signed]