



EDPS  
EUROPEAN DATA PROTECTION SUPERVISOR

# AUDIT REPORT ON THE HANDLING OF DATA SUBJECT RIGHTS AND THEIR RESTRICTION AT THE EUROPEAN INVESTMENT BANK (EIB)

Brussels, 18 and 19 September 2023

EDPS case number 2023-0180

## *Executive summary*

### *Introduction*

The European Data Protection Supervisor (EDPS) is the independent supervisory authority established by Article 52 of the Regulation (EU) 2018/1725<sup>1</sup> (the “EUDPR”) responsible for:

- Monitoring and ensuring the application of the provisions of the EUDPR and any other EU act relating to the protection of the fundamental rights and freedoms of natural persons with regard to the processing of personal data by an EU institution or body; and
- Advising EU institutions and bodies and data subjects on all matters concerning the processing of personal data.

To these ends, the EDPS fulfils the duties provided for in Article 57 and exercises the powers granted in Article 58 of the EUDPR. Among his powers to investigate, the EDPS can carry out investigations in the form of data protection audits. The power to audit is one of the tools established to monitor and ensure compliance with the EUDPR. The audit of the EIB’s processing of personal data, in particular the handling of data subject rights and their restriction was part of the EDPS annual audit plan for 2023.

The formal Decision was communicated to the EIB by means of an Announcement Letter dated 24 July 2023. The EIB provided additional information on 5 and 8 September 2023. The fieldwork took place on 18 and 19 September 2023.

Overall, the EDPS notes that the EIB cooperated with the EDPS audit team in an exemplary way.

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<sup>1</sup> Regulation (EU) 2018/1725 of the European Parliament and of 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, p. 39–98.

### *Scope of the Audit*

Taking into consideration that the EDPS has received an increased number of complaints by data subjects over the past years, in particular on data processing by the EIB involving sensitive data, the scope of the audit has been determined by the EDPS as the right to information, (Articles 14, 15 and 16 of the EUDPR), consent and the right to withdraw consent (Articles 5(1)(d), 10(2)(a) and 15(2) of the EUDPR), the right to erasure (Articles 19 and 21 of the EUDPR), as well as the restriction of data subject rights under Article 25 of the EUDPR.

### *Key findings of the audit*

The main findings of the audit include the following:

- The EDPS observed, as a general remark, that there seems to be room for improvement as regards records and data protection notices and harmonize them since they are the cornerstones of informing data subjects;
- At the time of the audit, the EIB still has not adopted a written procedure in relation to the management of the medical files; the draft presented does not include any solution for cases of *indirect* access that avoids that the person concerned receives their personal data *directly*;
- The EIB needs to ensure that, once it has been established that the reasons for restricting a particular data subject right no longer apply, the Personnel Directorate informs the data subject concerned without undue delay, including on the reasons for the restriction;
- Proper coordination between IG/IN and the DPO in recording the reasons for a restriction of a particular data subject right is currently hampered by the fact that justifications for deferring information of the data subject and the respective proportionality assessment are not comprehensively and in writing shared between IG/IN and the DPO.

### *Recommendations and follow-up to the audit*

The recommendations contained in the report must be implemented to comply with the EUDPR.

In view of the above, the EIB should demonstrate that the recommendations included in the audit report are implemented within the deadlines indicated therein. The EDPS will carry out a close follow-up; if need be, powers listed in Article 58 of the EUDPR may be exercised.

Brussels, 17 November 2023

*(e-signed)*  
Wojciech Rafał WIEWIÓROWSKI