



EUROPEAN DATA PROTECTION SUPERVISOR

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SUPERVISOR

Ms. Veronica GAFHEY  
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**Subject:** Closure of enforcement proceedings in the Commission's use of Microsoft 365  
(Case 2021-0518)

Dear Ms Gaffey,

I acknowledge receipt of your letter of 3 July 2025, together with its annexes, providing further clarifications and amendments to the Data Protection Terms of the Inter-Institutional Licensing Agreement with Microsoft regarding the Commission's use of Microsoft 365.

I would like to thank you and your colleagues for the continued cooperation and constructive engagement with my Office throughout the follow-up to the EDPS Decision of 8 March 2024.

As you will recall, that decision concluded the EDPS' investigation into the Commission's use of Microsoft 365 under Regulation (EU) 2018/1725, ordering certain measures to be implemented by the Commission, where necessary with the help of Microsoft. In response to that decision, DG DIGIT submitted a compliance report on 6 December 2024. Since then, I know that DG DIGIT, the Commission's Legal Service and the DPO have met regularly with my colleagues from the Supervision and Enforcement Unit and our Legal Service, to clarify the content of the report and to provide further informal explanations on the Commission's and Microsoft's actions, both already taken and foreseen.

I understand that with your letter of 3 July 2025, the Commission has now formally submitted these further clarifications and documentation with the intention to demonstrate compliance with the provisions of Regulation (EU) 2018/1725 found to be infringed in the EDPS Decision.

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The EDPS has formally assessed the documentation submitted by the Commission. I consider that clarifications provided demonstrate that the situation has significantly changed from the one examined in the EDPS Decision of 8 March 2024. I find that the Commission is now in control of what happens in its use of Microsoft 365 services, a result of additional contractual, technical and organisational measures implemented or scheduled in cooperation with Microsoft. In particular, I note the following:

1) Purpose limitation

The Commission has further explicitly specified the types of personal data processed in the Commission's use of Microsoft 365 and the purposes of that processing. It has therefore sufficiently determined the essential elements of the processing. The Commission has put in place measures to ensure that this remains so also if Microsoft were to change the way Microsoft 365 services operate. It has also taken measures so that all Microsoft 365 services provided to the Commission will be brought into scope of the data protection provisions providing the stricter level of protection under the contract with Microsoft. With the additional contractual and organisational measures, the Commission has issued sufficient binding documented instructions to Microsoft, its affiliates and sub-processors.

I therefore conclude that the Commission has ensured that personal data in the Commission's use of Microsoft 365 are only processed in order to provide those services to the Commission. I consider that the Commission has taken further measures to ensure that personal data will be further processed only for compatible purposes in the public interest, and, for processing within the EEA, as required by EU or Member State law, or, for processing outside of the EEA, third-country law that ensures a level of protection essentially equivalent to that in the EEA, to which Microsoft or its affiliates or sub-processors are subject.

2) International transfers

The Commission has further specified the purposes of the processing, further determined to which recipients in which third countries personal data in its use of Microsoft 365 is allowed to be transferred and has issued binding instructions to Microsoft, its affiliates and sub-processors in that respect. The Commission and Microsoft have implemented technical and organisational changes to how Microsoft 365 services are provided to the Commission. In addition, Microsoft has finalised the implementation of the EU Data Boundary<sup>1</sup> and has undertaken ongoing efforts and commitments to situate more of its staff and data centres involved in providing Microsoft 365 services within the EU, thereby reducing the possibilities for transfers to occur. Furthermore, the Commission and Microsoft have provided documentation demonstrating the limited scale and the exceptional and occasional nature of transfers to non-adequate countries that have occurred since 9 December 2024 in relation to the Commission's use of Microsoft 365. In light of additional contractual, technical and organisational measures, the Commission has limited any transfer to Microsoft, its affiliates and sub-processors of personal data resulting from the Commission's use of Microsoft 365 to the specific adequate and non-adequate third countries set out in the amended contract.

I therefore conclude that the Commission has ensured that any transfers of personal data in the Commission's use of Microsoft 365 take place to allow the Commission's tasks to be carried out in line with Article 47 of Regulation (EU) 2018/1725. I also conclude that the Commission can validly rely on the derogation of important reasons of public

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<sup>1</sup> The EU Data Boundary consists of the countries in the EU and the EFTA and is subject to exceptions and exclusions under which Microsoft will continue data transfers out of the EU Data Boundary.

interest under Article 50(1)(d) of Regulation (EU) 2018/1725 for those transfers to Microsoft, its affiliates and sub-processors that may exceptionally occur to specific non-adequate third countries set out in the amended contract.

### 3) Unauthorised disclosures

The Commission has implemented additional measures in the contract with Microsoft in relation to disclosures of personal data processed within and outside of the EEA and to notifications of requests for such disclosures. This complements the existing technical and organisational measures implemented by the Commission and Microsoft for personal data processed within and outside of the EEA. Personal data resulting from the Commission's use of Microsoft 365 will be transferred outside of the EEA either on the basis of an adequacy decisions in line with Article 47, or exceptionally on the basis of a derogation under Article 50(1)(d) of Regulation (EU) 2018/1725.

I therefore conclude that the Commission has ensured that only EU or Member State law may prohibit notification to the Commission of a request for disclosure of personal data in the Commission's use of Microsoft 365 processed within the EEA, and essentially equivalent third country law for disclosure of personal data in the Commission's use of Microsoft 365 processed outside the EEA. I also conclude that the Commission has ensured that no disclosures by Microsoft or its sub-processors of personal data in the Commission's use of Microsoft 365 processed within the EEA take place, unless the disclosure is required by EU or Member State law to which Microsoft or its affiliates or sub-processors are subject, or, for data processed outside the EEA, essentially equivalent third country law.

Based on the substantially changed situation demonstrated by the Commission, I conclude that the Commission now complies with the provisions of Regulation (EU) 2018/1725 found to be infringed in the EDPS Decision of 8 March 2024. Therefore, I consider the infringements established in that Decision as remedied, and I hereby close the enforcement proceedings in case 2021-0518.

I am convinced that, thanks to the EDPS' thorough investigation, and the Commission's follow-up – in close coordination with Microsoft – we have jointly contributed to a significant improvement of data protection compliance in the Commission's use of Microsoft 365. This marks a meaningful and shared success for all parties involved, and a strong signal of what can be accomplished through constructive cooperation.

Yours sincerely,

*[e-signed on 11 July 2025]*

Wojciech Rafał WIEWIÓROWSKI

Cc: [REDACTED], Data Protection Officer, European Commission  
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