



EUROPEAN DATA PROTECTION SUPERVISOR

EDPS Decision 35/2025 concerning investigation on the dismissal of the data protection officer of the European Committee of the Regions (Case 2025-0319)

The European Data Protection Supervisor,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Article 57(1)(f) and Article 58(2)(b) of Regulation (EU) 2018/1725 ('the Regulation'),¹

Has adopted the following decision:

1. Scope

1. This decision sets out the results of the European Data Protection Supervisor's ('EDPS') investigation on the position of the data protection officer ('DPO') of the European Committee of the Regions ('CoR'), in context of the dismissal of the DPO, and the subsequent appointment of a new DPO, by decision of the CoR Secretary-General of 28 November 2024 (Case 2025-0319).
2. This Decision is addressed to the CoR.

2. The investigative actions

2.1. Opening of the investigation

3. In December 2024, the EDPS learned about the designation of [REDACTED] as new DPO for the CoR ('the new DPO'), resulting in the dismissal of [REDACTED] from her position as DPO ('the current DPO'), whereas her term of designation was due to expire on 31 December 2025.
4. Given that the EDPS had not received from the CoR any formal information in this matter, and that no formal request for consent on the dismissal in accordance with Article

¹ 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. References to Articles in this document refer to the Regulation.

44(8) of the Regulation had been submitted, the EDPS pre-investigated the matter pursuant to Article 57(1)(f) of the Regulation and opened a formal investigation case into the matter.

2.2. EDPS information requests and documentation provided by the CoR

5. By letter of 19 December 2024, the EDPS requested that the CoR provide by 13 January 2025, its position about the dismissal of the current DPO without the EDPS' prior consent.
6. By letter of 10 January 2025, the CoR submitted its reply to the EDPS.
7. By letter of 30 January 2025, the EDPS reiterated its concerns about the matter. Referring to the obligation to cooperate with the EDPS laid down in Article 32 of the Regulation, the EDPS asked that the CoR provide, by 15 February 2025, all the elements that would enable the EDPS to verify whether the dismissal of the current DPO was compliant with Article 44(8) of the Regulation.
8. By letter of 11 April 2025, the CoR replied to the EDPS and provided additional documents.

2.3. Preliminary analysis

9. On 28 May 2025, the EDPS issued its preliminary analysis to provide the CoR with the opportunity to submit observations on the preliminary analysis, in particular on the facts mentioned therein, before any possible enforcement actions.
10. By letter of 16 June 2025, the CoR provided its observations on the preliminary assessment to the EDPS. The CoR expressed its sincere apologies for not having obtained the EDPS' consent prior to reassigning the post of DPO from the current DPO to the new DPO, and acknowledged the importance of respecting procedural requirements.
11. The CoR enclosed two decisions of 11 June 2025:
 - decision COR 2025/1784 (with effect as of 1 December 2024), withdrawing decision COR 2024/3663 dismissing the current DPO;
 - decision COR 2025/1783 (with effect as of 28 November 2024), withdrawing decision COR 2024/3658 appointing the new DPO.
12. As a result of the withdrawn decisions, the current DPO has been re-established as DPO of the CoR. Her 3-year mandate ends on 31 December 2025.
13. Moreover, the CoR informed the EDPS that the CoR Bureau is expected to adopt the proposal to clearly display the direct reporting line from the DPO to the Secretary-General in the organigram at its meeting in October 2025, with the aim to bring it into conformity with the legal situation at the CoR, in line with the EDPS' request.

14. In addition, the CoR requested the EDPS' permission to relieve the current DPO of her duties as DPO, in order to enable the CoR to appoint a new DPO as soon as possible and ensure continuity in this area.²
15. The EDPS has carefully assessed the letter and taken into account the CoR's comments on the preliminary assessment.

3. Factual background

16. On 1 January 2023, the CoR appointed the current DPO as DPO for a 3-year term, i.e. until 31 December 2025.
17. On 28 November 2024, the CoR adopted two decisions: Decision No. 3658/2024 to appoint the new DPO, and Decision No. 3663/2024 to dismiss the current DPO from her role as DPO.
18. By Decision No. 3658/2024, the CoR appointed the new DPO for a 3-year term starting on 1 December 2024. According to the appointment decision's recitals, '*[t]he Secretary-General took the decision to transfer the function of Data Protection Officer to the Legal Service, in accordance with the recommendation of the Committee's internal auditor, and [t]he current term of office of the Data Protection Officer for the European Committee of the Regions will thus end on 30 November 2024.*'
19. By Decision No. 3663/2024, the CoR dismissed the current DPO from her role as DPO with effect of 1 December 2024. Article 1 of Decision No. 3663/2024 provides that the current DPO is reassigned with her post to the Director of the Human Resources and Finance Directorate. Article 2 provides that she is no longer in charge of the DPO function, the latter being entirely transferred to the Legal Service.
20. By letter of 3 December 2024, the CoR informed the EDPS about the appointment of the new DPO. The CoR annexed to its letter Decision No. 3658/2024, but not Decision No. 3663/2024.
21. On 19 December 2024, the EDPS addressed a letter to the CoR, stating that if the CoR intended to dismiss the current DPO as DPO, the EDPS' consent would be required in accordance with Article 44(8) of the Regulation. The EDPS clarified that in the absence

² The request for consent under Article 44(8) of the Regulation will not be addressed in the present decision, as it was submitted subsequent to the preliminary assessment and did not form part of the latter. The request is dealt with under a separate case file (case 2025-0543).

of its consent prior to a potential dismissal of the current DPO, for the EDPS the mandate of the current DPO was still ongoing.

22. In the same letter, the EDPS clarified that the need to safeguard the functional independence of the DPO translates into various provisions of the Regulation, including the requirements that the DPO ‘*does not receive any instructions regarding the exercise of [their] tasks*’ and ‘*shall directly report to the highest management level*’ (Article 48(3) of the Regulation).³ The EDPS added that, even though the DPO may be linked, as a staff member, to a specific service/unit, the DPO function as such, and the direct reporting line, should be reflected in the organisation chart of the EU institution, body, office or agency (‘EUI’) to visibly show that this is indeed a specific and independent function. In the case of the CoR, the EDPS noted that the DPO function did not seem to appear anywhere in the public organisation chart available on its website.⁴
23. In its reply of 10 January 2025, the CoR took the view that they had not dismissed the current DPO from her post, and that the fulfilment of the conditions of Article 44(8) of the Regulation had therefore never been considered. According to the CoR, the decision to appoint the new DPO clarified that the administrative decision to transfer the function of DPO to the Legal Affairs Service was made following the recommendations of the CoR’s internal auditor, and after having heard the current DPO.
24. In its letter, the CoR submitted that the internal audit report ‘*strongly recommended modifying the DPO’s organisational structure to ensure compliance with [the Regulation] and the [CoR] internal control standard number 7*’. According to the CoR, the audit pointed out in particular that the former structure:
 - did not ensure the independence of the DPO, since the current DPO did not report directly to the Secretary-General;
 - failed to ensure an efficient collaboration between the DPO and the deputy DPO, as they both belonged to separate entities;
 - could lead to a potential conflict of interest, because of the current DPO’s function as HR legal advisor.
25. As regards the lack of visibility of the DPO function in the CoR organigram pointed out by the EDPS, the CoR indicated that they would reflect on how to introduce the DPO’s

³ See also Articles 44(3), (5), (6), (7) and 45(1)(b) of the Regulation.

⁴ As last updated on 1 December 2024: <https://cor.europa.eu/sites/default/files/2024-07/organigramme-en.pdf>.

direct reporting line to visibly show that this is indeed a specific and independent function, as suggested by the EDPS.

26. On 30 January 2025, the EDPS addressed the second letter to the CoR, specifying that it had no doubts that the current DPO had been dismissed from her position as DPO before her term of designation. The EDPS emphasised that the conditional dismissal of the DPO under Article 44(8) of the Regulation plays a crucial role in safeguarding the functional independence of the DPO, as stipulated in Article 44(3) of the Regulation. The EDPS clarified that to prevent any attempt to circumvent this rule by concealing the true grounds for dismissal, EUIs were required to consult the EDPS before adopting a dismissal decision, allowing the EDPS to verify whether the proposed dismissal complies with Article 44(8) of the Regulation. Such a consultation must include all facts and findings supporting the conclusion that the DPO would *'no longer fulfil the conditions required for the performance of his or her duties'*, along with any other relevant information and documentation regarding the intended dismissal.
27. The EDPS requested in the same letter that the CoR provide, by 15 February 2025, all relevant documents and clarifications, including the document in which its internal auditor made the recommendation highlighted in its letter of 10 January 2025.
28. By letter of 11 April 2025, the CoR replied to the EDPS. Annexed to the CoR's letter were extracts of a confidential internal audit report on personal data protection dated September 2024 and extracts of the Decision of the Secretary-General of 28 November 2024 dismissing the current DPO.⁵ In the letter, the CoR apologised for not having sought the EDPS prior 'advice' under Article 44(8) of the Regulation, and assured that this omission was unintentional. The CoR 'fully recognise[d] that the EDPS should have been consulted in advance of the appointment' of a new DPO. In addition, the CoR reiterated and further developed its arguments to justify the dismissal of the current DPO. The CoR also indicated its intention to issue a decision formally annulling the appointment of the new DPO and requesting the EDPS' authorisation to relieve the current DPO from her role as DPO.⁶
29. On 28 May 2025, the EDPS issued its preliminary assessment following the above investigation. The EDPS preliminarily found that the CoR had infringed Article 44(8) of the Regulation by dismissing the current DPO from her position of DPO before her term of appointment, without obtaining the consent of the EDPS.

⁵ CoR Ref. 3663/2024.

⁶ Quote from the CoR's letter: '(...) I will issue a new decision formally annulling the previous appointment of [redacted] and now respectfully seek your views on her designation. (...) In this context, and in accordance with Article 44(8) of the EUDPR, I also respectfully request your authorisation to formally relieve [redacted] of her role as DPO.'

30. Furthermore, the EDPS clarified that the request for consent under Article 44(8) of the Regulation must be submitted prior to the dismissal. Since the CoR had not requested the EDPS' consent before dismissing the current DPO, the EDPS concluded that no assessment of the reasons supporting the intention of an EUI to dismiss its DPO was necessary. The EDPS further clarified that the request for consent submitted by the CoR in its letter of 11 April 2025, would only be considered upon formal receipt of the annulment decisions concerning the current DPO and the new DPO, and that this request should include all the facts and findings that led to the conclusion that the current DPO no longer fulfilled the conditions required for performing her duties.
31. In view of the preliminary findings of infringement, the EDPS envisaged exercising the following corrective powers:
- **reprimand** the CoR under Article 58(2)(b) of the Regulation for not having requested the EDPS' consent prior to adopting Decision 3663/2024 dismissing the current DPO from her role as DPO;
 - **order** the CoR, under Article 58(2)(e) of the Regulation to bring the situation into compliance with Article 44(8) of the Regulation in the following manner and within two weeks;
 - **annul** Decision 3658/2024 appointing the new DPO and Decision 3663/2024 dismissing the current DPO and, as a result, re-establish the latter as DPO of the CoR.
32. As set out above, the CoR provided their observations on the preliminary assessment to the EDPS on 16 June 2025. The CoR expressed their sincere apologies for not having obtained the EDPS' consent prior to reassigning the post of DPO from the current DPO to the new DPO, acknowledging the importance of respecting procedural requirements. In addition, the CoR demonstrated that it had complied with the envisaged order under Article 58(2)(e) of the Regulation to bring the situation into compliance with Article 44(8) of the Regulation, by annulling Decision 3658/2024 appointing the new DPO, and Decision 3663/2024 dismissing the current DPO and, as a result, re-establishing the current DPO as DPO of the CoR.⁷
33. Moreover, the CoR informed the EDPS that the CoR Bureau is expected to adopt the amended organigram, clearly displaying the direct reporting line from the DPO to the Secretary-General, at its meeting in October 2025.

⁷ Decision COR 2025/1784 of 11 June 2025 (with effect as of 1 December 2024), withdrawing decision COR 2024/3663 dismissing ██████████ as DPO, and Decision COR 2025/1783 of 11 June 2025 (with effect as of 28 November 2024), withdrawing decision COR 2024/3658 appointing ██████████ as new DPO.

4. Legal assessment

34. The EDPS finds that the CoR infringed Article 44(8) of the Regulation by dismissing the current DPO from her position before her term of appointment, without obtaining the consent of the EDPS.
35. Article 44(8) of the Regulation provides that '*[t]he data protection officer shall be designated for a term of three to five years and shall be eligible for reappointment. The data protection officer may be dismissed from the post by the Union institution or body which designated him or her if he or she no longer fulfils the conditions required for the performance of his or her duties and only with the consent of the European Data Protection Supervisor.*' Thus, a DPO may only be dismissed from their post if two cumulative conditions are met: with the consent of the EDPS, and if they no longer fulfil the conditions required to perform their duties.⁸

a) The consent of the EDPS

36. The legal requirement to obtain the EDPS' consent is an important factor in ensuring the functional independence of the DPO in line with Article 44(3) of the Regulation, which provides that the DPO '*shall not be dismissed or penalised by the controller or the processor for performing his or her tasks.*'⁹ This requirement does not aim to interfere with the organisational autonomy of the EUIs, but to reinforce accountability through a specific requirement to demonstrate that the dismissal is in line with the provisions of the Regulation on the DPO's independence. The obligation to involve the EDPS applies each time an EUI considers dismissing a DPO, i.e. prior to a planned dismissal.
37. Obliging EUIs to involve the EDPS when they intend to terminate the DPO mandate before the expiration of the term, regardless of the reason(s), ensures that Article 44(8) of the Regulation has an *effet utile* in light of Article 16(2) TFEU and 8(3) of the Charter of Fundamental Rights and contributes to an effective supervision.¹⁰
38. Adopting an interpretation of Article 44(8) of the Regulation to the contrary would effectively confer upon EUIs the discretion to determine by themselves whether to

⁸ See also [EDPS Position Paper on the role of the DPO in EUIs](#), p. 12.

⁹ [EDPS Position Paper on the role of the DPO in EUIs](#), sections 4.3. and 4.6. See also relevant case law on the corresponding provisions of Regulation 2016/679 (GDPR): Judgment of 22 June 2022, *Leistrütz*, C-534/20, ECLI:EU:C:2022:495, para 28, and Judgment of 9 February 2023, *ZS*, C-560/21, ECLI:EU:C:2023:81, para 22.

¹⁰ Judgment of 21 June 2022, *Ligue des droits humains*, C-817/19, ECLI:EU:C:2022:491, para 86: '*(...) in accordance with a general principle of interpretation, an EU act must be interpreted, as far as possible, in such a way as not to affect its validity and in conformity with primary law as a whole and, in particular, with the provisions of the Charter. Thus, if the wording of secondary EU legislation is open to more than one interpretation, preference should be given to the interpretation which renders the provision consistent with primary law rather than to the interpretation which leads to its being incompatible with primary law (judgment of 2 February 2021, *Consob*, C-481/19, EU:C:2021:84, paragraph 50 and the case-law cited).*'

request the consent of the EDPS, based solely on their own assessment of the circumstances. Such an approach risks undermining the procedural safeguards envisaged by the Regulation. This could lead EUIs to attempt to circumvent Article 44(8) of the Regulation by not providing (adequate) reasoning for the dismissal.

39. On 28 November 2024, the CoR adopted two decisions; to appoint the new DPO (Decision 3658/2024) and to dismiss the current DPO from her role (Decision 3663/20024), respectively.
40. It is undisputed that the CoR did not ask for the consent of the EDPS, as required by Article 44(8) of the Regulation, prior to taking the two decisions of 28 November 2024.
41. In its letter of 11 April 2025, the CoR explicitly recognised that it had infringed Article 44(8) of the Regulation. The CoR reiterated this acknowledgment in its observations on the preliminary assessment.
42. In conclusion, the EDPS finds that by not requesting the EDPS' consent before dismissing the current DPO, the CoR infringed Article 44(8) of the Regulation.

b) Substantial requirement: the DPO no longer fulfils the conditions for the performance of their tasks

43. The EDPS notes that the CoR in its observations on the preliminary assessment, submitted a new request for consent, supported by the facts and findings that led to the conclusion that the current DPO no longer fulfils the conditions required for performing her duties, and accompanied by the annulment decisions concerning both the current DPO and the new DPO.
44. As mentioned above,¹¹ the EDPS will consider this request in the framework of separate case file and communicate its findings to the CoR when the assessment of the substantial requirement in Article 44(8) of the Regulation has been completed.

5. Conclusions

45. In conclusion, the EDPS has found that the CoR infringed:
 - Article 44(8) of the Regulation by dismissing the current DPO from her position before the term of her designation, without requesting the consent of the EDPS.

¹¹ See footnote 2.

6. Corrective powers

46. Under Article 52(3) of the Regulation, the EDPS is responsible for monitoring and ensuring the application of the provisions of the Regulation and of any other Union act granting protections to natural persons whose data are processed by EUs. To that end, the EDPS exercises the powers granted in Article 58 of the Regulation, including corrective powers under Article 58(2).
47. In view of the above findings of infringement, the EDPS has decided to exercise the following corrective power:
- **reprimand** the CoR under Article 58(2)(b) of the Regulation for not having requested the EDPS' consent prior to adopting Decision 3663/2024 dismissing the current DPO from her role.
48. As regards the second corrective power envisaged in the EDPS preliminary assessment of 28 May 2025, i.e. the envisaged order under Article 58(2)(e) of the Regulation to bring the situation into compliance with Article 44(8) of the Regulation, the EDPS observes that the CoR has already taken action to this effect. The EDPS notes that the CoR, by decisions dated 11 June 2025, has withdrawn Decision 3658/2024 appointing the new DPO, and Decision 3663/2024 dismissing the current DPO, and, as a result, re-established the latter as DPO of the CoR, as specified in the preliminary assessment.
49. It follows that the envisaged order is no longer necessary.

7. Necessity and proportionality of the corrective measures imposed

50. In identifying the applicable corrective power, the EDPS has taken into account the following factors:
- The DPO function is fundamental in ensuring compliance with the Regulation within EUs;
 - The conditional dismissal of the DPO under Article 44(8) of the Regulation is an important factor in ensuring the functional independence of the DPO in line with Article 44(3) of the Regulation and effective supervision in light of Article 16(2) TFEU and 8(3) of the Charter;
 - The fact that the CoR did not request the EDPS' consent sets a damaging institutional precedent. Safeguarding the independence of the DPO role across the EU public administration is not just a legal requirement; it is a matter of

systemic trust in data protection governance within the EU's public administration.

51. In deciding on the corrective power, the EDPS has also considered the following mitigating factors:

- The CoR has acknowledged the infringement of Article 44(8) of the Regulation, and submitted that it was unintentional;
- The CoR has expressed its sincere apologies for not having obtained the EDPS' consent prior to reassigning the post of DPO and acknowledged the importance of respecting procedural requirements;
- The CoR has taken action to comply with the envisaged order under Article 58(2)(e) of the Regulation.

52. However, while the EDPS welcomes the CoR's efforts set out above, it finds that they are not such as to remedy the infringement of Article 44(8) of the Regulation.

53. In accordance with case law, the EDPS, where it finds an infringement of the provisions of the Regulation, is required to react appropriately in order to remedy the shortcoming found,¹² irrespective of the reason for, or nature of, the inadequacy.¹³ The goal is to ensure that the processing of personal data complies with the applicable data protection provisions and to make good situations where there has been a breach of these provisions, so as to make them conform with EU law, as a result of the intervention by the EDPS.¹⁴

54. In view of the above circumstances, the EDPS considers that a reprimand under Article 58(2)(b) of the Regulation is an appropriate, necessary, and proportionate corrective measure in relation to the infringement of Article 44(8) of the Regulation that it seeks to remedy.

55. The primary purpose of the EDPS' power to issue a reprimand under Article 58(2)(b) of the Regulation is to achieve a dissuasive effect and to make it clear to the EU institution concerned that it has infringed the Regulation.

56. This is without prejudice to any follow-up or other actions the EDPS might undertake in the future, including imposing a fine to the CoR pursuant to Article 66(2) of the Regulation.

¹² Judgment of 7 December 2023, *Land Hessen*, Joined Cases C-26/22 and C-64/22, ECLI:EU:C:2023:958, para 57.

¹³ Judgment of 16 July 2020, *Facebook Ireland and Schrems*, C-311/18, ECLI:EU:C:2020:559, paras 111 and 112.

¹⁴ Judgment of 14 March 2024, *Budapest Főváros IV. Kerület Újpest Önkormányzat Polgármesteri Hivatala v. Nemzeti Adatvédelmi és Információszabadság Hatóság*, C-46/23, ECLI:EU:C:2024:239, para 40.

57. Pursuant to Article 59 of the Regulation, the CoR must inform the EDPS of its views and describe the measures it has taken in response to our remarks within three months of the date of this decision.

8. Judicial remedy

58. Pursuant to Article 64 of the Regulation, the CoR and any party, which could be adversely affected by the EDPS decision may bring an action for annulment against this decision before the Court of Justice of the European Union, within two months from the adoption of the present Decision and according to the conditions laid down in Article 263 TFEU.

Done at Brussels, 24 July 2025

[e-signed]

Wojciech Rafał WIEWIÓROWSKI