



WOJCIECH RAFAŁ WIEWIÓROWSKI
ASSISTANT SUPERVISOR

[REDACTED]
(By email only)

26 JUL 2019

Brussels,

[REDACTED] D(2019)1556 C 2019-0321

Please use edps@edps.europa.eu for all
correspondence

Subject: Your complaint against Europol – Decision of the EDPS – EDPS case 2019-0321.

Dear [REDACTED],

We are writing to you with reference to the complaint submitted by your former attorney [REDACTED] to the European Data Protection Supervisor (the EDPS) on 25 March 2019.

Your complaint relates to Europol's decision of 13 February 2019 ("Europol's decision"), concerning your request to exercise your right of access to your personal data as set out in Article 36 of the Europol Regulation.¹ In its decision, Europol informed you that "there are no data concerning you which are processed at Europol".

The EDPS has examined your complaint and carried out the necessary checks, including an on-the-spot verification at Europol's premises. Following this examination, the EDPS found no evidence that Europol processes any of your personal data.

In your statement of 23 April 2019, you also referred to 'discreet checks' under Article 36 of Council Decision 2007/533/JHA.² Please note that supervision of the Schengen Information System (SIS II) falls outside the jurisdiction of the EDPS and we therefore do not have any authority to investigate it. Indeed, supervision of SIS II is exercised at national level. You may want to use your right of access to the personal data relating to you held in SIS II, to find out if your personal data are processed in this context. A guide by the SIS II Supervision Coordination Group on how to exercise the right of access in relation to SIS II is available on our website.³ You can address your access request to any of the competent authorities mentioned there.

¹ Regulation (EU) 2016/794 of the European Parliament and of the Council of 11 May 2016 on the European Union Agency for Law Enforcement Cooperation (Europol) and replacing and repealing Council Decisions 2009/371/JHA, 2009/934/JHA, 2009/935/JHA, 2009/936/JHA and 2009/968/JHA, OJ L 135 of 24.5.2016, p. 53.

² Council Decision 2007/533/JHA of 12 June 2007 on the establishment, operation and use of the second generation Schengen Information System (SIS II), OJ L 205, 7.8.2007, p. 63–84.

³ https://edps.europa.eu/data-protection/european-it-systems/schengen-information-system_en.

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In consequence of its findings set out above, the EDPS has decided to close its investigation.

Yours sincerely,



Wojciech Rafał WIEWIÓROWSKI

CC: [REDACTED], Data Protection Officer, Europol

Remedies

Both the complainant and Europol may ask for a review by the EDPS of the present Decision within one month of receipt. The request for revision should be lodged with the EDPS in writing and contain new factual elements or legal arguments which so far have not been taken into account by the EDPS.

Both the complainant and Europol may bring an action for annulment against this decision before the Court of Justice of the European Union, within two months⁴ from the adoption of the present Decision and according to the conditions laid down in Article 263 TFEU.

Data Protection Notice

According to Articles 15 and 16 of Regulation (EU) 2018/1725 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, please be informed that your personal data will be processed by the EDPS, where proportionate and necessary, for the purpose of investigating your complaint. The legal basis for this processing operation is Article 47 of Regulation (EU) 2016/794 on the European Union Agency for Law Enforcement Cooperation (Europol). The data processed are submitted by you, or obtained from other sources during the inquiry of your complaint, and this may include sensitive data. Your data will only be transferred to Europol or to third parties when it is necessary to ensure the appropriate investigation or follow up of your complaint. Your data will be stored by the EDPS in electronic and paper files for up to ten years after the case closure, unless legal proceedings require us to keep them for a longer period. You have the right to access your personal data held by the EDPS and to obtain the rectification thereof, if necessary. Any such request should be addressed to the EDPS at edps@edps.europa.eu. Your data might be transferred to other EU institutions and bodies or to any third parties only where necessary to ensure the appropriate handling of your request. You may also contact the data protection officer of the EDPS (EDPS-DPO@edps.europa.eu), if you have any remarks or complaints regarding the way we process your personal data. You can find the full version of our data protection notice on complaint handling at: https://edps.europa.eu/data-protection/our-role-supervisor/complaints-handling-data-protection-notice_en.

⁴ Please note that any request for revision of the present Decision lodged with the EDPS does not interrupt this deadline.