

**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 INSTITUTE OF INNOVATION &
TECHNOLOGY
(Case 2023-0199)**

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 Institute of Innovation & Technology (EIT) of 7 February 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 EIT 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 EIT on 7 February 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 AND RECOMMENDATIONS

4. The EDPS welcomes that the EIT has made 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. We note that the “*Whereas*” provisions do not refer to potential breaches of security rules for European Union classified information ('EUCI') (unlike the EDPS draft internal rules).
6. “Article 3” occurs twice (the numbering as of Article 3 “bis” will need to be amended).
7. Article 4 (“Safeguards and storage periods”) should be complemented by a clarification as to what happens at the end of the retention period (the EDPS draft internal rules clarify that “*At the end of the retention period, the personal data shall be deleted, anonymised or transferred to archives in accordance with Article 13 of the Regulation*”).
8. Article 7(1) and (2) relate to “Information to data subjects on restrictions of their rights” (i.e. Article 6) rather than communications on data breaches (the intended scope of Article 7 under the EDPS draft internal rules). Article 7(1) and (2) should therefore be moved to Article 6.
9. The wording of Article 8(3) refers to “*...the restriction referred to in paragraph 1 and 2 ...*”. However, Article 8(2) does not state any restriction. We recommend rewording Article 8(3) in line with the EDPS draft internal rules (“*The [EUI] may defer, omit or deny the provision of information concerning the reasons for a restriction and the right to lodge a complaint with the EDPS for as long as it would cancel the effect of the restriction. Assessment of whether this would be justified shall take place on a case-by-case basis*”), whilst keeping the reference to “*cooperation with the Data Protection Officer*” currently stated in Article 8(3) of the draft decision.

4. CONCLUSION

The EDPS welcomes the draft internal rules as submitted and makes the recommendations outlined above. The EDPS expects the EIT to adopt the draft internal rules accordingly and has decided to **close the case**.

Done at Brussels on 04/04/2023

[e-signed]