

Memorandum of Understanding on increasing cooperation between the European Data Protection Supervisor and the Spanish Data Protection Authority

I. Preamble

This document is a Memorandum of Understanding setting out the principles for increased cooperation between:

- The European Data Protection Supervisor (EDPS), established by Regulation (EU) 2018/1725 of the European Parliament and of the Council¹, represented for the purposes of signature of this Memorandum of Understanding by the European Data Protection Supervisor, Mr Wojciech Wiewiórowski; and
- The Spanish Data Protection Authority (AEPD), represented for the purposes of signature of this Memorandum of Understanding by Ms Mar España Martí, who was appointed as Director by Royal Decree 715/2015 of 24 July 2007

Under Article 52 of Regulation (EU) 2018/1725, the EDPS is the independent supervisory authority responsible, with respect to the processing of personal

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)

data, for ensuring that the fundamental rights and freedoms of natural persons, and in particular their right to data protection are respected by the Union institutions, bodies, offices and agencies.

Under this article, the EDPS is responsible for monitoring and ensuring the application of the provisions of this Regulation and of any other Union act relating to the protection of the fundamental rights and freedoms of natural persons with regard to the processing of personal data by a Union institution or body, and for advising Union institutions and bodies and data subjects on all matters concerning the processing of personal data. To those ends, the European Data Protection Supervisor shall fulfil the tasks set out in Article 57 and exercise the powers granted in Article 58 of Regulation (EU) 2018/1725.

The AEPD is the independent administrative authority which has the powers conferred by Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation or GDPR) and Organic Law 3/2018 of 5 December on the protection of personal data and the guarantee of digital rights (hereinafter LOPDGDD).

It is for the AEPD to perform the tasks set out in Article 57 GDPR, which include monitoring the application of the Regulation itself and enforcing it; promote public awareness and understanding of risks; rules, safeguards and rights in relation to their processing; promote the awareness of controllers and processors of their obligations as well as any other tasks related to the protection of personal data

II. Purpose/Subject Matter

The purpose of this Memorandum is to lay down the foundations for institutional cooperation between its signatories with a view to promoting the dissemination of the right to the protection of personal data; ensure joint cooperation on the protection of personal data and provide a framework for the exchange of know-how and best practices to strengthen the technical capacities of both sides related to the enforcement of personal data protection law.

This Memorandum of Understanding has been agreed in recognition of the common interest of EDPS and AEPD to cooperate more in areas of mutual interest. Building on earlier exchanges, it aims to establish, define and promote a structured cooperation in accordance with and subject to their respective statutory tasks and powers.

This Memorandum of Understanding does not impact activities and duties that either party carries out.

III. Scope of the Cooperation

In order to fulfil the objectives of this Memorandum, the signatories undertake the following general commitments:

- Developing specific technical cooperation mechanisms to enable, in a more non-exhaustive manner, the exchange of knowledge and experience and the identification of best practices in the field of personal data protection;

- Encourage and contribute to research, studies, analyses and reports on the protection of personal data;
- Collaborate in the development and dissemination of guides, tools and other materials aimed at facilitating compliance with data protection legislation by processing agents;
- Promote technical cooperation mechanisms for the effective application of their respective laws;
- Encourage the development of joint initiatives, primarily in the framework of international programmes and projects, which contribute to strengthening respective competences in sectors and areas with a significant social, environmental and institutional impact; and
- In general, encourage any action they consider necessary for the most appropriate fulfilment of their respective competences, within the limits of their national legislation and, where appropriate, international law that may be applicable in the matter.

IV. Specific Terms of Collaboration Annexes

The joint activities will be carried out through the conclusion and implementation of Specific Terms of Collaboration in Annexes, which will be integrated to this instrument, specifying the following, or part of them, as may be necessary for each specific activity:

- Objectives and activities to implement;
- Commitments entered into by each of the parties;

- Designated staff, facilities and equipment to be used;
- Work schedule and evaluation mechanisms; and
- In general, everything necessary to determine precisely the purposes and scope approved by the signatories in each of the memoranda.

Each Specific Terms of Collaboration Annex shall follow the same procedure for approval as that followed for this Memorandum of Understanding.

V. Financing

There is no transfer of financial resources related to this MoU.

VI. Autonomy

Actions to achieve compliance with this Memorandum shall be carried out in full respect and without prejudice to the individual autonomy or nature of each of the signatories, as well as to the determinations applicable to each of them.

VII. Intellectual Property

Signatories shall preserve the ownership of the rights to works which are the product of their respective work, in accordance with the respective intellectual property laws.

In the case of materials and works which are the result of joint work, the signatories agree to share the ownership of the rights, in accordance with their respective intellectual property laws.

If any of the signatories wishes to use information or results resulting from an investigation carried out by the other signatory in their own publication, they must seek prior written authorisation from the other signatory and comply with the relevant legal provisions.

One party may not use the trade mark, logo or emblem of the other party in publications or programmes without the prior written consent of the other party.

VII. Monitoring Mechanism

For the proper conduct of the activities to be generated in the course of the implementation of this Memorandum, the Directors of both Agencies, as signatories to this Memorandum, shall designate a representative to act as a contact point, who may be replaced at any time, upon notification to the other signatory.

Officials designated as contact points shall have the following functions:

- a) Promote the conclusion of Specific Terms of Collaboration Annexes;
- b) Identify and support actions to be implemented in order to fulfil the purpose of this Memorandum and Specific Terms of Collaboration Annexes;

- c) Coordinate the implementation of activities identified in this Memorandum;
- d) Follow up on the activities resulting from this Memorandum and report regularly to the signatories on the results achieved;
- e) Any other functions agreed by the signatories.

The criteria for the coordination, monitoring and implementation of the subject matter of this Memorandum which are deemed necessary to implement, shall be determined by the designated representatives. Representation shall be composed of two persons, one for each of the parties.

EDPS and AEPD aim to meet at least once a year to review matters related to the Memorandum, inter alia, to identify further areas of cooperation, and in order to exchange views on main current and forthcoming challenges for privacy and data protection, including security of personal data processing and management of personal data breaches, data protection by design and by default and privacy by design, privacy enhancing technologies and privacy engineering and as well as analyses of emerging technologies, foresight methods and topic-specific assessments on the expected societal, legal, economic and regulatory impact of technological innovations.

The representation shall consist of the following persons:

FOR THE "EDPS"	FOR THE "AEPD"
<p>Luis Velasco Head of Unit Technology and Privacy</p> <p>Address: Rue Wiertz 60, B-1047 Brussels Telephone numbers: (+32) 228 31896</p>	<p>Luis de Salvador Carrasco. Director of the Technological Innovation Division of the Spanish Data Protection Agency</p> <p>Address: Calle Jorge Juan, 6. 28001. Madrid. Telephone numbers: (+34) 913 996 921 (+34) 913 996 353</p>

VIII. Human Resources

The signatories agree that the staff assigned by each of them to carry out the activities provided for in this Memorandum will remain under the direction and dependence of the institution to which they belong, so that no employment relationship will be created with the other institution, which will not be regarded as a substitute or solidarity-based employer.

The signatories shall rely on their respective authorities to provide all necessary facilities for the entry, stay and departure of participants officially involved in the cooperation activities arising from this Memorandum

VIII. Transparency

Signatories shall take all possible steps to make available to the public information relating to the work carried out in connection with the implementation of this Memorandum, as well as information relating to the exercise of public resources, provided that such action does not infringe the duty of integrity and professional secrecy required, as well as the relevant law applicable to each signatory with regard to the protection of personal data.

IX. Settlement of Disputes

Any dispute arising from the interpretation or application of this Memorandum shall be settled, in good faith, by the signatories by common accord.

This Memorandum is neither legally binding nor subject to international law.

X. Confidentiality

EDPS and AEPD each undertake to keep any information, document or other material communicated to them as confidential, and not to disclose such confidential material to third parties without the prior written consent of the originating party.

EDPS and AEPD agree to respect all security measures related to the protection of EU classified information.

XI. Final Provisions

This Memorandum shall apply from the date of its signature and shall continue to apply for a period of four years from that date and may be renewed for the same period, by express written agreement of the signatories.

This Memorandum may be amended by mutual consent of the signatories, formalised by written communications, specifying the starting date of application of such amendments.

Either signatory may terminate this Memorandum, provided that it notifies the other party in writing at least three (3) months in advance of the date of

termination. The early termination of this Memorandum shall not affect the completion of projects initiated under this Memorandum.

XII. Formalities in accordance with Law

This Memorandum shall be subject to the formalities laid down in the law applicable to each of the signatory parties.

For AEPD
The Director

For EDPS
The European Data Protection Supervisor

Signed on June twenty-ninth of the year two thousand twenty-three.