

AG: EDPS Has Right to Act against Europol Regulation Amendments

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News

On 8 May 2025, Advocate General (AG) *Campos Sánchez-Bordona* delivered his [Opinion](#) on a question concerning the rights of action of the European Data Protection Supervisor (EDPS).

Background: On 6 September 2023, the General Court of the EU had ruled in case [T-578/22](#) that an action for annulment brought by the EDPS against an amendment to the Europol Regulation on the processing of personal data by Europol was inadmissible. The grounds? That the EDPS does not have a privileged right to bring such an action if the contested act does not directly concern it. The EDPS subsequently appealed the General Court's ruling (Case [C-698/23 P](#)), citing an infringement of the principle of institutional balance within the meaning of the ECJ judgment in *Parliament v Council* ([C-70/88 of 22 May 1990](#)), and invoking his right to an effective remedy to protect his prerogative of independence. In the context of Art. 263 (4) TFEU, he further claimed that the General Court had erred in finding that the contested transitional provisions did not directly concern the EDPS.

In his opinion, the AG concluded that both the Court and the institutions involved agree that the EDPS does not have a privileged right of action under Art. 263(2) and (3) TFEU. Therefore, the right of action of the EDPS depends on whether the conditions set out in Art. 263(4) TFEU have been met or not. According to the Advocate General, the EDPS had met these conditions in this case. He argued that the EDPS's supervisory role in enforcing data protection rules should not be subject to strict interpretation of the general right to take legal action.

The EDPS is responsible for ensuring that the Union's institutions comply with data protection rules. This important function should not be restricted without good reason. The AG also stated that the EDPS had convincingly demonstrated why the provisions could affect its legal status and that the General Court should have taken this into account.

In conclusion, AG *Sánchez-Bordona* proposed that the ECJ allows the appeal, sets aside the order of the General Court of 6 September 2023, and refers the case back to the General Court for it to give judgment on the substance. The opinion of the Advocate General is not binding on the Court of Justice.

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