

Letter from the European Ombudsman to the European Data Protection Supervisor on artificial intelligence and the EU administration

Correspondence - 18/06/2021

Case SI/3/2021/VS - **Opened on** 18/06/2021 - **Decision on** 17/06/2022 - **Institutions concerned** European Commission | European Data Protection Supervisor |

European Data Protection Supervisor

Strasbourg, 18/06/2021

Subject: Strategic initiative SI/3/2021/VS on artificial intelligence and the EU administration

Dear Mr Wiewiórowski,

Artificial intelligence (AI) has permeated every aspect of our lives from the trivial to the highly consequential, such as decision-making related to medical diagnoses or social security benefits.

My Office has been following this topic closely and recently hosted a webinar on AI and e-government in public administration for the *European Network of Ombudsmen* (ENO). Many of the questions that AI raises pertain to core areas of an Ombudsman's work, such as transparency, accountability of decision-making, ethics and fundamental rights. Some of my colleagues at national level have already handled complaints and issued guidance related to the use of AI [1]. I am therefore particularly keen to help keep ENO members fully up-to-date on developments at EU level.

The recent Commission proposal to regulate AI is of immediate interest to my Office and ENO members. The proposal envisages that competent authorities will be designated or established at national level to ensure the implementation of the Regulation. When Union institutions, agencies and bodies fall within the scope of the Regulation, it is envisaged that the European Data Protection Supervisor will act as the competent supervisory authority. I note that the proposal is striving to put trust at the heart of the regulatory approach by ensuring a high level of protection of fundamental rights, including the right to good administration, as well as compliance with principles of good administration. [2]



It is in this context that I am writing to you with a request for a meeting between representatives of the EDPS and my Office. It would, in particular, be useful for my Office to hear details on the EDPS' ongoing work related to AI and about its new role envisaged by the proposed AI Act, as well as to have an exchange of views on how the proposed rules might operate, specifically with regard to the EU administration and public administrations in general [3] . This should enable my Office to keep ENO members fully informed and to prepare itself for any action that may be expected on our part, notably in terms of dealing with any possible complaints alleging maladministration in this area. I have also requested a meeting with representatives from the European Commission.

I would be grateful if the EDPS representatives responsible for the matter could contact Ms Valentina Stoeva to agree on the arrangements for the meeting. We will send a list of questions in advance of the meeting and draw up a report on the meeting that we would then share with you and publish on our website.

On behalf of the European Network of Ombudsmen, I thank you for engaging on this important matter.

Yours sincerely,

Emily O'Reilly European Ombudsman

[1] An example of guidance at the national level could be found in the report issued by the Dutch Ombudsman, 'The citizen is not a dataset', 21 March 2021:
<https://www.nationaleombudsman.nl/nieuws/onderzoeken/the-citizen-is-not-a-dataset> [Link]

[2] <https://digital-strategy.ec.europa.eu/en/policies/european-approach-artificial-intelligence>

[3] Among the issues to be explored are what users' obligations will be and what the scope will be of ex ante and ex post controls of respect for fundamental rights.