

GENERAL COURT

DECISION OF THE GENERAL COURT

of 16 October 2019

establishing an internal supervision mechanism regarding the processing of personal data by the General Court when acting in its judicial capacity

(2019/C 383/03)

THE GENERAL COURT,

Having regard to the Treaty on European Union, in particular Article 19 thereof,

Whereas, under Article 8(1) of the Charter of Fundamental Rights of the European Union ('the Charter'), '[e]veryone has the right to the protection of personal data concerning him or her',

Whereas, under Article 8(3) of the Charter, '[c]ompliance with [the] rules [governing the protection of personal data] shall be subject to control by an independent authority',

Whereas Article 57(1)(a) of 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, provides that the supervisory tasks of the European Data Protection Supervisor are not to include the processing of personal data by the General Court when acting in its judicial capacity,

Whereas, with regard to the supervision of such processing operations, the EU legislature, referring to Article 8(3) of the Charter, suggested, in recital 74 of Regulation (EU) 2018/1725, that independent supervision should be established, for example through an internal mechanism,

HAS ADOPTED THE PRESENT DECISION:

Article 1

1. If a natural person submits an application to the Registrar of the General Court requesting the Registrar to adopt a decision in his capacity as person responsible for the processing of personal data by the General Court when acting in its judicial capacity, the Registrar shall notify the person concerned of his decision within two months from the date on which the application was submitted. Upon expiry of that period, failure to reply shall be deemed to constitute an implied decision rejecting the application.
2. A complaint may be made in respect of a decision taken by the Registrar of the General Court in his capacity as person responsible for the processing of personal data by the General Court when acting in its judicial capacity in response to an application under paragraph 1, or of his own initiative, to the committee referred to in Article 2 ('the committee'), in accordance with the conditions laid down in Article 3.

Article 2

1. The committee shall consist of a chairperson and two members, chosen from among the Judges of the General Court.
2. The chairperson and members of the committee shall be appointed by the General Court on a proposal by the President of the General Court for the duration of the President's term of office.

3. On a proposal by the President, the General Court shall also appoint alternate members, who will be called upon to sit if one or more members of the committee are unable to sit. The alternate members shall replace the members who are unable to sit, in accordance with the order established by protocol.
4. If the chairperson of the committee is unable to sit, the committee shall be chaired by one of its full members or alternate members, in accordance with the order established by protocol.
5. The committee shall meet when convened by its chairperson. The chairperson shall draw up the agenda for the meeting as well as the minutes of the meeting.
6. The committee shall be assisted in its functions by the Legal Adviser on Administrative Matters of the Court of Justice of the European Union.

Article 3

1. The complaint shall be lodged by the natural person concerned by the decision referred to in Article 1(2), or by his representative, within a period of two months from notification of that decision or, where relevant, from the date on which that person became aware of the decision.
2. The complaint shall be made in one of the official languages of the European Union.

Article 4

1. If the complaint satisfies the conditions laid down in Article 3, the committee shall carry out a review of the facts and points of law which gave rise to the adoption of the decision referred to in Article 1(2).
2. The committee may hear any person whose oral evidence it considers may be relevant.
3. The committee may annul and, in that case, also vary, or uphold the decision referred to in Article 1(2). The committee's decision shall, with regard to the complainant, replace the decision referred to in Article 1(2).
4. The committee shall notify the complainant of its decision, which shall be taken within a period of four months from the date on which the complaint was lodged. If the committee fails to give an express decision within that period, it shall be deemed to have confirmed the decision referred to in Article 1(2).
5. The bringing of judicial proceedings by the complainant against the decision referred to in Article 1(2) shall bring to an end the committee's competence to deal with the complaint before it.

Article 5

This decision shall enter into force on the date of its adoption.

Done in Luxembourg, 16 October 2019.

Registrar
E. COULON

President
M. VAN DER WOUDE