

Client alert

Data protection

11 September 2025

CJEU Clarifies Concepts of Personal and Pseudonymised Data

On 4 September 2025, the Court of Justice of the European Union (**CJEU**) released an important judgment in the case *EDPS v SRB* (C-413/23 P) in which it clarified the essential concept of “personal data”, specifically in the context of sharing pseudonymised data with a third-party recipient. This judgment will have far-reaching implications in practice with respect to pseudonymisation of personal data and assist controllers to comply with their transparency obligations under the EU data protection laws.

Background

The EU agency Single Resolution Board (**SRB**) shared, in its capacity as controller, pseudonymised comments from shareholders and creditors of a Spanish bank with Deloitte acting as external auditor for the bank. The affected stakeholders of the bank submitted complaints to the European Data Protection Supervisor (**EDPS**) alleging the infringement of the transparency obligation set out in the EU Data Protection Regulation for EU Institutions (**EUDPR**) as they had not been informed of the communication of their data. SRB is subject to the EUDPR but the judgment has a broader impact. It is also relevant for controllers subject to the GDPR as the concept of ‘personal data’ is the same in both legislations.

The EDPS found that the SRB sharing of pseudonymous data with Deloitte was made in violation of the transparency obligation as the latter was not identified in the SRB’s privacy statement as a third-party recipient of such data. The SRB appealed this decision before the General Court (**GC**). The GC disagreed and annulled the EDPS’ decision finding that the expressed opinions of the stakeholders did not constitute personal data because Deloitte was not able to identify the stakeholders further to the pseudonymisation. The EDPS appealed this decision to the CJEU. The main findings of the CJEU are set out below.

Are the stakeholders’ opinions ‘personal data’?

The CJEU first recalled that information must relate to an ‘identified or identifiable’ natural person in order to be classified as personal data. As a result, an examination is required to determine whether a data subject is identified or identifiable by the information in question. The CJEU concluded that the GC wrongly interpreted its *Nowak* judgment (C-434/16) by requiring the EDPS to examine *the content, purpose or effect* of the information contained in the comments transmitted to Deloitte. According to the CJEU, the EDPS did examine the *content* of the information, while assessments of the *purpose* or *effect* of the information are mere alternatives rather than mandatory assessments (as indicated by the conjunction ‘or’). The CJEU also clarified that there is a “*particular nature of personal opinions or views, which, as an expression of a person’s thinking, are necessarily closely linked to that person*”.

Are pseudonymised data 'personal data'?

Second, the CJEU clarified that pseudonymised data may still qualify as personal data for the controller, but not necessarily for the recipient. This is the case if the recipient lacks the means to identify the data subject and is prevented from accessing such means to identify the data subject. The CJEU drew this conclusion on the basis of the definition of "pseudonymisation". It pointed out that this requires the establishment of technical and organisational measures to reduce the risk of a data set being correlated with the identity of data subjects.

Based on these findings, the CJEU concluded that the stakeholders' opinions shared by the SRB with Deloitte constitute personal data for the SRB, as the controller, since it has access to additional information enabling the comments shared with Deloitte to be attributed to the data subjects. This is however not the case for Deloitte, as the recipient, due to the technical and organisational measures in place preventing Deloitte from attributing the comments to any data subject.

Does the transparency obligation apply to pseudonymised data?

The CJEU recalled that the assessment whether a data subject is identifiable depends on the circumstances in each individual case. It further confirmed that the controller's transparency obligation applies "*at the time when personal data are obtained*". The CJEU held that, for the transparency obligation to apply, "*the identifiable nature of the data subject must be assessed at the time of collection of the data and from the point of view of the controller*".

The CJEU then concluded that the SRB should have informed the data subjects of the fact that their personal data may be shared with external consultants, such as Deloitte, for audit purposes, prior to the transfer of data taking place, and regardless of whether the data remained personal after pseudonymisation.

Conclusion

In its judgment, the CJEU provides important clarifications on the legal status of pseudonymised data under EU data protection laws. In particular, the finding that, contrary to the EDPS' position, pseudonymised data must *not* be regarded as constituting, in all cases and for every person, personal data, will have significant implications in practice. The CJEU concluded in the case at hand that the pseudonymised comments constituted personal data for the controller (*i.e.*, the SRB), because it could still identify the data subject, but not for the recipient (*i.e.*, Deloitte), who could no longer make such identification due to the measures taken to effectively prevent a re-identification.

The decision of the CJEU can be consulted [here](#).

Tanguy Van Overstraeten
Gert-Jan Fraeyman
Axelle WaÛters
Noah Coetsier

Lawyers to contact



Tanguy Van Overstraeten
Partner
tvanooverstraeten@vbb.com



Gert-Jan Fraeyman
Senior Associate
gfraeyman@vbb.com

Brussels office

Glaverbel Building
Chaussée de La Hulpe 166
B-1170 Brussels
Belgium

Phone: +32 (0)2 647 73 50

Geneva office

2, Chemin des Mines
CH-1205 Geneva
Switzerland

E-mail: geneva@vbb.com

London office

Holborn Gate
330 High Holborn
London
WC1V 7QH
United Kingdom

Phone: +44 (0)20 7406 1471

VAN BAEL & BELLIS

www.vbb.com

