

EN

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Answer given by Mr McGrath
on behalf of the European Commission
(1.4.2026)

Any processing of personal data, including in the context of AI development, must comply with the General Data Protection Regulation (GDPR)¹². Such processing must be based on one of the six lawful grounds for processing³. It is the obligation of the controller to select the most appropriate ground⁴. The controller must also meet all other GDPR requirements, including regarding transparency and processing of special categories of personal data⁵.

As regards the alleged transfer of personal data to Kenya, any international transfer must comply with the specific rules under the GDPR⁶.

The enforcement of the rules of the GDPR in individual cases, such as the case at hand, lies with the national data protection authorities and courts.

The Commission has proposed targeted amendments of the GDPR⁷. They enhance legal clarity, cut unnecessary administrative burden for operators and data protection authorities and contribute to a more consistent application of the GDPR which also benefits data subjects.

The Commission considers that the amendments comply with the Charter of Fundamental Rights of the European Union⁸ and that no additional fundamental rights assessment is required beyond what is already set out in the accompanying Commission Staff Working Document⁹.

¹ 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), OJ L 119, 4.5.2016, p. 1–88.

² European Data Protection Board, Opinion 28/2024 on certain data protection aspects related to the processing of personal data in the context of AI models.

³ Article 6(1) GDPR.

⁴ Article 5(2) GDPR.

⁵ Article 13, Article 14 GDPR and Article 9(2) GDPR.

⁶ In particular, Chapter V GDPR. This can be done, for example, by putting in place a transfer instrument (such as a contract) that provides for appropriate data protection safeguards and enforceable rights for individuals (Article 46 GDPR). Companies using such a transfer instrument must, in accordance with the Schrems II judgment of the Court of Justice, assess whether they can ensure a level of protection that is essentially equivalent to that in the EU, including in light of possible conflicting laws in the third country (e.g. on government access to data).

⁷ Proposal for a Regulation of the European Parliament and of the Council amending Regulations (EU) 2016/679, (EU) 2018/1724, (EU) 2018/1725, (EU) 2023/2854 and Directives 2002/58/EC, (EU) 2022/2555 and (EU) 2022/2557 as regards the simplification of the digital legislative framework, and repealing Regulations (EU) 2018/1807, (EU) 2019/1150, (EU) 2022/868, and Directive (EU) 2019/1024 (Digital Omnibus), COM/2025/837 final.

⁸ Charter of the Fundamental Rights of the European Union, <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:12012P/TXT>.

⁹ See also Commission Staff Working Document accompanying the Commission's Proposal, SWD (2025) 836 final, section 1.2.