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# EU General Court examines data anonymisation and pseudonymisation

## Background

The EU General Court has ruled that pseudonymised data will not be deemed personal data where it is transmitted to a recipient who is unable to link the pseudonyms used with an identifiable individual.

## Differences between pseudonymisation and anonymisation

Pseudonymisation describes removing certain identifiers from personal data that could be used to identify an individual. In contrast, anonymisation is an irreversible means of ensuring there is no possible way to re-identify an individual. Prior to the EU General Courts ruling, both the General Data Protection Regulation 2016/679 (the "**EU GDPR**") and the UK's implementation of the EU GDPR ("**UK GDPR**"), deemed pseudonymised data as personal data and therefore subject to the rules applicable to personal data. However, the EU General Court's ruling states that pseudonymised data will no longer be deemed personal data under the EU GDPR, although it still remains personal data under the UK GDPR.

## Background to the Case

The EU General Court ruled on a case between the Single Resolution Board ("**SRB**") and the European Data Protection Supervisor ("**EDPS**") regarding the classification of personal data shared by the SRB with a third party. The case originated from the resolution of Banco Popular Español, S.A ("**Banco Popular**") and its transfer of ownership to Santander.

The SRB provided pseudonymised personal data to a third party, to assess whether shareholders and creditors of Banco Popular would have received better treatment under normal insolvency proceedings. The pseudonymised data replaced names of individuals with alphanumeric codes, which could only be re-identified using the SRB's database. The EDPS held that because the SRB maintained the ability to link the codes to individuals, the data was pseudonymised and constituted personal data.

## Decision

The EU General Court disagreed with the EDPS' analysis, and concluded that the SRB held the additional information required to re-identify individuals, and the alphanumeric codes shared with the third party remained insufficient for identifying individuals. The EU General Court clarified that where the recipient of the information is unable to re-identify the individual, that information will not be deemed personal data under the EU GDPR.

## How does this impact you?

This recent ruling is seen as positive news for companies processing EU personal data. However, the judgment can still be appealed to the Court of Justice of the European Union. The rules under the UK GDPR should be followed for pseudonymised UK personal data. The Information Commissioner's Office have not yet announced that the UK will follow the same position as the EU, however, they have indicated that the UK intends to take a more "business friendly" approach to data protection, even if this means diverging from the EU regime.

If you need any help or further information, please contact Leela Fair:

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