



## EUROPEAN COMMISSION

European Climate, Infrastructure and Environment Executive Agency

**RECORD OF PERSONAL DATA PROCESSING ACTIVITY**

In accordance with Article 31 of the [Data Protection Regulation for EIUs](#)<sup>1</sup> (hereinafter referred to as the Regulation), individuals whose personal data are processed by the European Climate, Infrastructure and Environment Executive Agency (hereinafter referred to as CINEA or Agency) in any context whatsoever are to be protected with regard to the processing of personal data and the Agency has to keep records of their processing activities.

<sup>2</sup>

Record No: 2022-005/A2-LEG-05  
 Created on (date): 02/02/23  
 Last update (date): 16/02/23

**NAME OF THE PROCESSING ACTIVITY**

Early Detection and Exclusion System (EDES)

**GROUND FOR THE RECORD :**

- Regularisation of a data processing activity already carried out
- Record of a new data processing activity prior to its implementation
- Change of a data processing activity (e.g.: update of a record).

<sup>1</sup> Regulation (EU) 2018/1725 of 23 October 2018

<sup>2</sup> *The Record number in the central register will be provided during the consultation with the DPO*

## 1. MANDATORY RECORD UNDER ARTICLE 31 OF THE REGULATION<sup>3</sup>

### 1.1. Name and contact details of controller

- a. CINEA Unit A2 - Legal Affairs, External audits and Administrative Finance  
Chaussée de Wavre 910  
W910, 02/006  
BE – 1049 Brussels
- b. the Head of Unit
- c. Email: CINEA-ANTI-FRAUD@ec.europa.eu

### 1.2. Name and contact details of the Data Protection Officer (DPO)

CINEA DPO

[CINEA-DPO@ec.europa.eu](mailto:CINEA-DPO@ec.europa.eu)

### 1.3. Name and contact details of joint controller (where applicable)

Not applicable

### 1.4. Name and contact details of processor (where applicable)

- 1.5. EC/DG BUDG under the Service Level Agreement signed with the Agency with reference. Ares(2020)1478248 - 10/03/2020

### 1.6. Purpose of the processing

The purpose of the processing activity is to enter data into the Early Detection and Exclusion System (EDES) system established by the Commission to ensure the protection of the Union's financial interests and sound financial management for Programmes managed by CINEA by means of detection of risks and where applicable imposition of administrative sanctions. Entering data subjects in EDES aims specifically to:

- The early detection of persons or entities which may pose a risk to the financial interests of the Union;
- The exclusion of persons or entities which are in one of the exclusion situations referred to in the Financial Regulation;
- The imposition of a financial penalty on a recipient if applicable;
- The publication on the Commission's internet site of information related to the exclusion and where applicable the financial penalty when there is a need to reinforce the deterrent effect.

### 1.7. Legal basis for the processing

- Articles 135-145 of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union (the Financial Regulation);
- Article 50 of the Commission Regulation (EC) No 1653/2004 of 21 September 2004 on a standard financial regulation for the executive agencies pursuant to

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<sup>3</sup> *This part of the record will be published on CINEA website and should be aligned with the information provided in the DP notice*

Council Regulation (EC) No 58/2003 laying down the statute for executive agencies to be entrusted with certain tasks in the management of Community programmes;

- Regulation (EC) N°58/2003 laying down the statute for executive agencies to be entrusted with certain tasks in the management of Community programmes;
- Commission Implementing Decision (EU) 2021/173 of 12 February 2021 establishing the European Climate, Infrastructure and Environment Executive Agency, the European Health and Digital Executive Agency, the European Research Executive Agency, the European Innovation Council and SMEs Executive Agency, the European Research Council Executive Agency, and the European Education and Culture Executive Agency and repealing Implementing Decisions 2013/801/EU, 2013/771/EU, 2013/778/EU, 2013/779/EU, 2013/776/EU and 2013/770/EU

#### **1.8. Categories of data subjects**

- Applicants to call for proposals
- Contractors providing goods or services or executing works
- Complainants, correspondents and enquirers
- Beneficiaries of EU funding for programmes managed by the Agency, partners, affiliated entities
- External experts

#### **1.9. Categories of personal data**

Categories of personal data that will be processed in EDES on a case-by-case basis are the following:

1. For natural persons that are economic operator within the meaning of Article 2 of the Financial Regulation that could represent a threat either to the financial or reputational interest of the Union arising directly from their financial transactions (budget implementation) or in connection with them:

- Identification data: Name, surname, address (including e-mail address), country, and other identification or contact data of the persons to whom the EDES case refers to;
- Data on the link (if existing) with a legal entity file kept in the accounting system of the Commission;
- Data on exclusion or early detection or financial penalty;
- Grounds (in the case of exclusion): the grounds of the exclusion are mentioned under Article 136 (1) of the Financial Regulation, such as final judgement that the data subject is guilty of fraud, corruption, etc;
- Data on the duration of the exclusion or early detection: starting date, ending date, extension;
- Data on the panel (Article 143 of the Financial Regulation): if the case is submitted to the panel, date of the panel, if observations were submitted by the economic operator, if the recommendation of the EDES Panel was taken into account, revision of the panel's recommendation, etc;
- Data on the financial penalty: amount, if the amount was paid;

- Data on the authorising officer requesting the registration and on the contact persons responsible for the case: name, surname, business telephone number and professional email.

2. For natural persons who are members of the administrative, management and supervisory body of the economic operator, or who have powers of representation, decision or control with regard to the economic operator which is in one or more of the situations listed in points c to h of Article 136(1) of the Financial Regulation:

- Identification data: Name, surname, address, country, identity card number/ passport number/driving license (or other document proving identity), issuing country, date of birth, place of birth;
- Data on the link with an excluded economic operator: identification of the linked excluded economic operator, and if the natural person is a person with power of representation, decision making or control or if the person is a member of the administrative, management or supervisory body of the economic operator.

3. For natural persons who assume unlimited liability for the debts of that economic operator which is in a situation listed in Article 136(1) (a) or (b) of the Financial Regulation:

- Identification data: Name, surname, address, country, identity card number/ passport number/driving license (or other document proving identity), issuing country, date of birth, place of birth;
- Data on the link with an excluded economic operator: identification of the linked excluded economic operator, and if the natural person is a person who assumes unlimited liability for the debts of that economic operator.

Pursuant to Article 140 of the Financial Regulation, the following data may be published subject to the decision of the authorising officer:

- Identification data: name and address of the economic operator;
- Data on exclusion and grounds of exclusion (article 136 (1) of the Financial Regulation);
- Duration of exclusion;
- Data on financial penalty: amount and if it was paid.

Where the decision on the exclusion and/or financial penalty has been taken on the basis of a preliminary classification as referred to in Article 136 (2) of the Financial Regulation, the publication shall indicate that there is no final judgment or, where applicable, final administrative decision. In those cases, information about any appeals, their status and their outcome, as well as any revised decision of the authorising officer, shall be published without delay.

Specific categories of personal data may be processed, pursuant to Article 136 (1) of the Financial Regulation, which lists the exclusion criteria and exclusion situations, namely .

- Data relating to insolvency or winding-up procedures, or an analogous situation;
- Data relating to the non-payment of taxes or social security contributions;
- Data relating to grave professional misconduct (fraudulent misrepresentation of information, distortion of competition, violation of intellectual property rights, attempt to influence the decision making process of the contracting authority during a procurement procedure, etc.);

- Data relating to fraud, corruption, participation in criminal organisation, money laundering, offences linked to terrorist activities, child labour or other forms of trafficking in human beings;
- Data relating to significant deficiencies in complying with main obligations in the performance of a contract;
- Data relating to an irregularity.

4. For informants:

Name, surname, addresses (including e-mail address) and telephone number of the informant, where available.

**1.10. Retention time (time limit for keeping the personal data)**

a) Retention period: (Article 142, 4.3 of the Financial Regulation) from the moment that the relevant case is validated by the Commission (DG BUDG) . The information is automatically removed from the system at the end of the period. If, during the retention period of information on early detection, the authorising officer requests the panel referred to in Article 143 to issue a recommendation in an exclusion case, the retention period may be extended until such time, when the authorising officer has taken a decision. In other cases, as soon as it is no longer justified, the information on early detection is closed by the authorising officer in the system.

The duration of information on exclusion shall not exceed:

- Five years for cases referred to in f Article 136.1 d. of the Financial Regulation (in cases of fraud, corruption, participation in criminal organisation, money laundering, offences linked to terrorist activities, child labour or other forms of trafficking in human beings);
- Three years for the cases referred to in Article 136.1 (c), (e) and (f) of the Financial Regulation (grave professional misconduct, significant deficiencies in complying with main obligations in the performance of a contract and irregularity)
- The duration, if any, set by the final judgement or the final administrative decision of a Member State;

A person or entity shall be excluded as long as s/he is in one of the exclusion situations such as bankruptcy, insolvency or winding-up procedures, or an analogous situation, non-payment of taxes or social security contributions.

Any decision of the authorising officer or any recommendation of the panel on the proposed duration of the exclusion shall be made in compliance with the principle of proportionality (Article 136 (3) of the Financial Regulation). A published information on exclusion will be removed as soon as the exclusion has come to an end.

In case of a financial penalty, if the relevant information has been published, the publication shall be removed six months after payment of that penalty.

- Removed information on early detection, exclusion and/or financial penalty shall be accessible for audit, investigation purposes and for the purposes of the preliminary classification in law due to the fact that the "recurrence" is a criterion to be taken into consideration for the recommendation of the panel referred to in the Financial Regulation. The removed information shall not be visible for the users of the EDES database. The additional period that this information will remain in the EDES database shall not exceed five years after the removal of the information. This is in line with Article 75 of the Financial Regulation.

Finally, information is entered upon registration and removed automatically at the end of the retention period of the information if, in the meanwhile, they have not been manually removed on the basis of a duly justified request by the data subject.

b) Storage period: *see above section 1.9 a) same period applies for storage*

c) Is any further processing for historical, statistical or scientific purposes envisaged, which would go beyond the normal retention period *No*

### 1.11. Recipients of the data

Access to your personal data is provided to the staff responsible for carrying out this processing operation and to authorised staff according to the “need to know” principle. Such staff abide by statutory, and when required, additional confidentiality agreements.

Recipients of the data of the EDES are the following:

#### **Within the EU organizations**

Recipients of the data of the EDES are the following (Article 142(4) and (5) FR):

- Authorised persons within CINEA, the Commission (DG BUDG, etc) and if applicable to other Executive Agencies for information concerning early detection, exclusion and financial penalty;
- Authorised persons as applicable within other EU Institutions, bodies, European offices and agencies for information concerning early detection, exclusion and financial penalty;
- Members of the Panel referred to in Article 143 of the Financial Regulation a high level independent chair, 2 representatives of the Commission and a representative of the requester authorising officer from CINEA;

Data may be accessed to in the system under (Articles 142(5) and Article 62(1)(c) of the Financial Regulation) by :

(i) third countries or the bodies they have designated;

(ii) international organisations and their agencies;

(iii) public law bodies;

(iv) bodies governed by private law with a public service mission to the extent that they provide adequate financial guarantees;

(v) persons entrusted with the implementation of specific actions in the CFSP pursuant to Title V of the TEU, and identified in the relevant basic act

- In addition, data may be disclosed to public authorities such as for instance the below ones, which may not be regarded as recipient in accordance with Union and Member State law. The processing of those data by those public authorities shall be in compliance with the applicable data protection rules according to the purpose of the processing:
  - Bodies in charge of a monitoring or an inspection task in application of Union law (e.g. internal audit, IAS, Court of Auditors, etc.);
  - The European Court of Justice or a national judge as well as the lawyers and the agents of the parties in case of a legal procedure;
  - OLAF in case of an investigation conducted in application of Regulation (EC) No 883/2013

- The European Ombudsman within the scope of the tasks entrusted to it by Article 228 of the Treaty on the Functioning of the European Union
- The European Data Protection Supervisor in accordance with Article 58 of the Regulation (EC) 2018/1725
- The European Public Prosecutor's Office within the scope of Article 4 of Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office

Access of certain data may be public for cases which are published on the website of the EDES related to exclusion and where applicable, the financial penalty (Article 140 of the Financial Regulation). In this respect, it is noted that according to this article where personal data is concerned the authorising officer shall inform the economic operator of its rights under the applicable data protection rules and of the procedures available to exercise those rights. In addition, where a natural person is concerned, personal data shall not be published, unless the publication of personal data is exceptionally justified, inter-alia, by the seriousness of the act or its impact on the Union's financial interests. In such cases, the decision to publish the information shall duly take into consideration the right to privacy and other rights provided for the Data Protection Regulation.

#### **1.12. Transfers of personal data to third countries or international organisations**

Any international organisations that would implement EU funds managed by CINEA would be bound by Agreements with the EU (contribution agreements, delegation agreements, financial framework partnership agreements, etc.)

The legal base for the data transfer would be:

- Transfer subject to appropriate safeguards (Article 48.2): a legally binding and enforceable instrument between public authorities or bodies
- Transfer based on an International agreement

Derogation for specific situations in accordance with Article 50.1 (d) of the Data Protection Regulation would apply if CINEA would be in a situation where transfer of data outside the EEA would be necessary in the absence of an adequacy decision, or of appropriate safeguards. In such case, transfer of personal data to a third country or an international organisation would be based on Article 50.1.d: transfer is necessary for important reasons of public interest. Indeed, entities implementing the EU budget such as CINEA may have access to the information on exclusion decisions, to enable them to verify whether there is an exclusion in the system with a view to taking this information into account, as appropriate and on their own responsibility, when awarding contracts in budget implementation. This qualifies as an important reason of public interest, since the ultimate purpose of EDES is the protection of the Union's financial interests.

#### **1.13. Description of security measures**

EDES is under the European Commission's IT systems and personal data encoded in EDES are stored on the servers of the European Commission. All processing operations are carried out pursuant to Commission Decision (EU, Euratom) 2017/46 of 10 January 2017 on the security of communication and information systems in the European Commission<sup>1</sup>. Organisational measures:



Organisational measures adopted by CINEA include appropriate access rights and access control as well as measures such as the nomination of a Corporate Local Informatics Security Officer (C-LISO), etc. As a rule within the Agency, access to information/file systems and offices are subject to a series of authorisations to ensure that data is processed solely by the authorised persons with a legitimate need to know for the purposes of this processing operation. Agency staff are bound by a confidentiality obligation. The need to know principle applies in all cases. Access to EDES data base is granted only to staff dealing with EDES matters.

Technical measures:

State of the art IT security (incl. cybersecurity, etc) measures are implemented by the Commission Services (DG DIGIT) in the corporate systems, according to the needs. Those measures are in constantly re-evaluated and updated

Technical measures include also appropriate actions by CINEA with the support of EC IT services to address online security, risk of data loss, alteration of data or unauthorised access, taking into consideration the risk presented by the processing and the nature of the personal data being processed.

#### **1.14. . Data Protection Notice**

A Data Protection Notice (DPN) relevant to this data processing activity is available on [the CINEA Intranet](#) and [CINEA website](#).

The privacy statement for the EDES database run by the European Commission is the following corporate:

[https://commission.europa.eu/system/files/2021-11/privacy\\_statement-edes-november\\_2021.pdf](https://commission.europa.eu/system/files/2021-11/privacy_statement-edes-november_2021.pdf)