



## 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 EUIs](#)<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.*

Record No: 2023-003/A2-LEG-07  
 Created on (date): 21/11/2023  
 Last update (date):

#### NAME OF THE PROCESSING ACTIVITY

Processing of personal data in the context of criminal investigations conducted by EPPO

#### GROUND FOR THE RECORD [*TICK THE RELEVANT ONE*]:

- 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

## 1. MANDATORY RECORD UNDER ARTICLE 31 OF THE REGULATION<sup>2</sup>

### 1.1. Name and contact details of controller

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

Not applicable

### 1.5. Purpose of the processing

To exchange information under the conditions laid down in the Working Arrangement and its annexes<sup>2</sup> between the EPPO and the Executive Agencies. This includes the reporting by the Agency to the EPPO of any suspicions of criminal conduct in respect of which the EPPO could exercise its competence and/or supporting the EPPO by contributing on a need-to-know basis to the investigations carried out by the EPPO by providing relevant information.

### 1.6. Legal basis for the processing

Article 5(1) (a), (b) of the Regulation:

- (a) processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the Agency;
- (b) processing is necessary for compliance with a legal obligation to which the controller is subject:
  - i) Council Regulation 58/2003 of 19 December 2002, laying down the Statute for executive agencies to be entrusted with certain tasks in the management of EU programmes<sup>3</sup>;
  - ii) Commission Implementing Decision (EU) 2021/173 of 12 February 2021 establishing the European Climate, Infrastructure and Environment Executive Agency, and repealing Implementing Decisions 2013/801/EU<sup>4</sup>;

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<sup>3</sup> OJ L 11 of 16.01.2003, p. 1

<sup>4</sup> OJ L 50, 15.2.2021, p. 9–28

iii) Commission Decision C(2021)947 of 12 February 2021 delegating powers to the European Climate, Infrastructure and Environment Executive Agency with a view to the performance of tasks linked to the implementation of Union programmes in the field of transport and energy infrastructure; climate, energy and mobility research and innovation; environment, nature and biodiversity; transition to low-carbon technologies; and maritime and fisheries;

iv) Communication of the Commission on Guidelines for the establishment and operation of executive agencies financed by the general budget of the European Communities (SEC(2006) 662 of 31 May 2006);

v) Articles 317 and 325 of the Treaty of the Functioning of the European Union (Official Journal of the European Union, C 326, 26 October 2012)

vi) Commission 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 (hereafter the Financial Regulation);

vi) Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ('the EPPO'), OJ L 283, 31.10.2017, p. 1–71.

The Agency may process special categories of personal data under Articles 10(2) of the Regulation in cases where:

- a. the processing is necessary for the establishment, exercise or defence of legal claims or whenever the Court of Justice is acting in its judicial capacity (Article 10(2)(f))
- b. the processing is necessary for reasons of substantial public interest, on the basis of Union law which shall be proportionate to the aim pursued, respect the essence of the right to data protection and provide for suitable and specific measures to safeguard the fundamental rights and the interests of the data subject (Article 10(2)(g))
- c. The data subject has given explicit consent to the processing of those personal data for one or more specified purposes (Article 10(2)(a))
- d. Processing relates to personal data which are manifestly made public by the data subject (Article 10(2)(e))

## 1.7. Categories of data subjects

### *Within the Agency:*

- Agency's staff identified by the Agency in the context of reporting duties to EPPO;
- Agency's staff possibly identified by the EPPO investigation;
- Natural persons who have provided information to EPPO including informants, whistle-blowers, witnesses and persons giving statements;
- Agency's staff of the relevant unit(s), whose names appear in documents processed;
- Other persons whose name may appear in the case file.

### *Outside of to the Agency:*

- Natural persons who may possibly be considered persons concerned by the EPPO investigation, such as:

- staff members or representatives of applicants in calls for proposals, beneficiaries of grant agreements managed by the Agency, experts (evaluation, monitoring, etc), candidates in procurement procedures and contractors of the Agency;
- staff members or representatives of other legal entities involved in public contracts or grant agreements managed by the Agency, if the suspicion of potential fraud, corruption and other unlawful activities under Regulation (EU, Euratom) No 883/2013 concerns them;
- Natural persons who have provided information to EPPO including informants, whistle-blowers, witnesses and persons who have provided statements;
- EPPO staff involved in the case;
- (Delegated) Prosecutors and national authorities involved;
- Other persons whose name may appear in the case file.

### **1.8. Categories of personal data**

- Identification data: surname, forename, birthday, birthplace, address, telephone number, e-mail address, personal number (where applicable);
- Professional data: profession, organisation, function, CV;
- Data relating to reporting to the EPPO: description of the potential case, activities and information related to matters which could be the subject of investigation;
- Case involvement data: description of the case, activities and information related to matters which may be the subject of investigation, comments of the person;
- Data relating to financial aspects (pre-financing, recovery orders, timesheets in order to provide evidence of payments made to beneficiaries or contractors (who are suspected of fraudulent or other illegal activity) or of decision to suspend or terminate such beneficiaries or contractors;
- Data contained in reports (interim, final) in case of natural persons (staff members/ representatives/ members of scientific team) in organisations (beneficiaries of grant agreements, etc.) or in case of Agency staff (probation and evaluation reports...);
- Data fields which fall under Article 10 are only processed where strictly necessary and proportionate within a given case and based on grounds under Article 10(2) of the Regulation.

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

#### **a) Retention period:**

Personal data shall be stored for no longer than is necessary for the achievement of the purposes for which the data were collected or further processed.

According to the Common Retention List (CLR) the personal data collected (electronic and paper format) and related to this processing will be kept for a maximum period of 5 years after closure of the file (CLR – under point 2.4.9)<sup>5</sup>.

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<sup>5</sup> SEC(2022)400 – ARES(2022)8801492, 19.12.2022

For the files on the cooperation of the Agency with EPPO in its investigations regarding natural persons within the Agency (CLR-under point 12.4.4): 15 years after the closure of the file that have given rise to investigations and 5 years after the closure of the files that have not given rise to investigations.

b) Storage period: Same as per retention periods above

c) Is any further processing for historical, statistical or scientific purposes envisaged, which would go beyond the normal retention period ? **Yes**

In accordance with the common Commission Retention List and after the 'administrative retention period', files concerning relations with the EPPO may be transferred to the Historical Archives of the European Commission for historical purposes.

#### **1.10. Recipients of the data**

Within the Agency, the following recipients will have access to the data:

- The Director of the Agency;
- Authorised members of the Agency staff;
- The EPPO correspondents within the Agency.

Outside of the Agency:

- EPPO case handlers/responsible staff

Other potential recipients may be:

- Members of the Steering Committee of the Agency
- EPPO correspondents within the European Commission and/or other Executive Agencies
- The EDES Panel referred to in Article 143 of the Financial Regulation
- In case of audits or proceedings, etc., the Agency's external auditors and/or Internal Controller, Data Protection Officer, Legal Affairs Sector, etc. may also get access to this data.

In addition, data may be disclosed to public authorities, which are not regarded as recipient in accordance with Union and Member State law. The processing of those data by those public authorities shall comply with the applicable data protection rules according to the purpose of the processing:

- 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;
- IDOC in line with Commission Decision of 12 June 2019 laying down general implementing provisions on the conduct of administrative inquiries and disciplinary proceedings - C(2019)4231 and Commission Decision (EU) 2019/165 of 1 February 2019 Internal rules concerning the provision of information to data subjects and the restriction of certain of their data protections rights in the context of administrative inquiries, pre-disciplinary, disciplinary and suspension proceedings;
- The competent Appointing Authority in case of a request or a complaint lodged under Articles 90 of the Staff Regulations;
- The Internal Audit Service of the Commission within the scope of the tasks entrusted by article 118 of the Financial Regulation and by article 49 of the Regulation (EC) No 1653/2004;

- The Court of Auditors within the tasks entrusted to it by Article 287 of the Treaty on the Functioning of the European Union and Article 20, paragraph 5 of Regulation (EC) No 58/2003;
- 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;

This transmission is restricted to the information necessary for the legitimate performance of tasks within the competence of the recipient. The recipients of the data are reminded of their obligation not to use the data received for other purposes than the one for which they were transmitted.

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

Not applicable

#### **1.12. Description of security measures**

All data in electronic format (e-mails, documents...) are stored on a secured drive with restricted access on a need-to-know basis.

The Agency is bound by Commission Decision 2017/46 of 10/1/17 on the security of communications & information systems in the European Commission.

An Outlook functional mailbox is created and used solely for the purpose of handling EPPO cases and is under SECEM encryption: access to this mailbox is restricted on a need-to-know basis to the staff members such as the Head of the Legal Affairs Sector and EPPO correspondents/staff of the Legal Affairs Sector designated to handle these cases.

Documents related to the EPPO cases may be stored in ARES with the relevant safeguards (access via ECAS password and authentication).

Reporting to EPPO follows the format of the EPPO crime report, via the available secured tools.

Paper files related to EPPO cases are processed under strict confidentiality via a sealed envelope transmitted hand to hand between the relevant staff authorised to process this information. Paper files are then kept in a locked cupboard accessible only to a limited number of authorised staff in line with the retention rules (see above).

The processing is subject to specific internal procedures as described in the [e-Manual of Procedures](#).

#### **1.13. Data Protection Notice**

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