



## 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: 2023-001/A2-LEG-03  
 Created on (date): 31/01/23  
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#### NAME OF THE PROCESSING ACTIVITY

Processing of personal data to prevent, detect and mitigate fraud and irregularities and follow-up internal investigations conducted by OLAF

#### 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

## 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

The processing operation under this record is to handle personal data in order to prevent, detect and/or mitigate fraud and/or other irregularities such as e.g. conflict of interest, etc. committed internally in the organisation or externally at the level of the candidates, applicants, experts, contractors or beneficiaries of EU funds managed by the Agency to ensure sound financial management.

In particular, it is necessary to analyse this type of information and decide on whether it should be transferred to the European Anti-Fraud Office (OLAF) or not. Personal data is also processed to follow-up any internal investigations launched by OLAF and to implement relating recommendations.

### 1.6. Legal basis for the processing

The legal basis for the processing based on Article 5(1) of the Regulation:

- a) the 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) the 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

- 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);
- vii) Regulation (EU, EURATOM) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999;
- viii) Regulation (EU, Euratom) 2020/2223 of the European Parliament and of the Council of 23 December 2020 amending Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF),
- ix) Council Regulation (Euratom, EC) No 2185/1996 of 11 November 1996 concerning on the spots checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities;
- x) Decision SC (2008)002 of the Agency Steering Committee of 30/9/2008 on the terms and conditions for internal investigations in relation to the prevention of fraud, corruption and illegal activity detrimental to the Communities' interests to accede to the inter-institutional agreement of 25 May 1999 on investigations by OLAF (OJ L136, 31.05.99, p.15)

## 1.7. Categories of data subjects

Data subject are:

- Internal to the organisation:
  - Staff members of the Agency if the suspicion of potential fraud and/or other financial irregularities concerns them;
  - Staff members whose names are mentioned by OLAF as 'persons concerned' or 'witnesses' in notifications of the opening or closure of, or further progress made during, internal investigations or investigations combining internal and external aspects.
- External to the organisation:
  - Natural persons such as staff members or representatives of

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

- 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;
- other legal entities involved in public contracts or grant agreements managed by the Agency, if the suspicion of potential fraud/irregularities concerns them;
- Natural persons such as whistle-blowers, informants, witnesses related to the case analysed and/or sent to OLAF for investigation.
- External natural persons whose names are mentioned by OLAF in notifications of the opening or closure of, or further progress made during, internal investigations or investigations combining internal and external aspects.

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

The categories of personal data that may be collected and/or processed are the following:

- Identification data: Last name, first name, address, e-mail, phone number (s), personal number (where applicable) etc;
- Data relating to the data subject's professional details: curriculum vitae (CV), position within the entity, function, unit, etc;
- Data relating to the conduct of the person, giving rise to possible irregularities: description of the serious wrongdoing/irregularity, source of information, causes of the presumed irregularity, impact on EU interests, amount involved, actions to mitigate the irregularity (taken/planned), etc.
- Data relating to financial aspects: pre-financing, recovery orders, timesheets in order to provide evidence of payments made to beneficiaries (who are suspected of fraudulent or illegal activity);
- Data contained in reports (interim, final) in case of natural persons (staff members/ representatives/ members of scientific team) in organisations (beneficiaries of grant agreements)
- any other information that may assist the Agency in deciding whether to take measures to protect its interests.

The categories of data listed above shall be collected and/or processed on a case-by case basis. Their presence is neither systematic nor necessary and it depends on the content of a particular case.

The processing operation concerning any 'special categories of data' which fall under Article 10(1) of the Regulation shall be prohibited unless any of the reasons under Article 10(2) of the Regulation applies.

Data relating to suspected offences, offences, criminal convictions and or security measures. They are collected and further processed only if they are necessary and proportionate in order to process the files relating to potential fraud and/or other financial irregularities.

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

a) Retention period:

According to the Common Retention List (CLR) - (SEC(2022)400), the retention periods are as follows:

- For the files on the cooperation of the Agency with OLAF in its investigations regarding external natural persons (CLR-under point 4.7.3) : 5 years after the closure of the file
- For the files on the cooperation of the Agency with OLAF in its investigations regarding internal natural persons (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?

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

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

Access to the data will be given only on a need- to- know basis.

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

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

OLAF may access the data when the Agency refers the case to them for further investigation.

Other potential recipients may be :

- Members of the Steering Committee of the Agency;
- OLAF correspondents within the European Commission and/or other Executive Agencies
- The EDES Panel referred to in Article 143 of the Financial Regulation;
- The EPPO when OLAF decides to dismiss the case and transfer it to the EPPO if the case qualifies for criminal offences on the basis of Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office;.
- In case of audits or proceedings, etc., CINEA's 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 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:

- o Bodies in charge of a monitoring or an inspection task in application of Union law (e.g. internal audit, IAS, Court of Auditors, etc.);
- o 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;
- o 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 anti-fraud 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 e OLAF correspondents/staff of the Legal Affairs Sector designated to handle these cases.

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

Paper files related to OLAF 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](#).