



Data Protection Notice

Early Detection and Exclusion System (EDES)

In accordance with Regulation (EU) 2018/1725 of 23 October 2018 on data protection (hereinafter the Regulation), the European Climate, Infrastructure and Environment Executive Agency (hereafter CINEA) collects your personal data only to the extent necessary to fulfil the precise purpose related to its tasks.

1. The **controller** is CINEA:
 - a. CINEA Unit A2 - Legal Affairs, External audits and Administrative Finance
 - b. Person responsible for the processing: the Head of Unit A2
 - c. Email: CINEA-ANTI-FRAUD@ec.europa.eu

2. The **purpose of the processing** is
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.

3. The **data subjects** concerned by this notice are
 - 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

4. The **categories of personal data** collected and used for the processing operations are:
 - 4.1. 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.

4.2. 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.

4.3. 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.

4.4. For informants:

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

5. The **recipients** of the data are:

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) of the Financial Regulation:

- 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;

The following recipients that have access to the tool may also access the data on the basis of Articles 142(5) and Article 62(1)(c) of the Financial Regulation:

- (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 case of audits or proceedings, etc., personal data may be provided to CINEA’s Internal Controller, DPO, etc .

In addition, data may be disclosed to public authorities in accordance with Union and Member State law such as 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, Investigation and Disciplinary Office of the European Commission (IDOC), the competent Appointing Authority in case of a request or a complaint lodged under Articles 90 of the Staff Regulations, European Anti-Fraud Office (OLAF), the Internal Audit Service of the Commission, the Court of Auditors ,the European Ombudsman, the European Data Protection Supervisor and 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 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.

6. Data Subjects rights:

Data subjects enjoy rights of information, access, rectification and erasure of their own data as well as right to restrict its processing under the conditions provided by the Regulation. They also have right to object to the processing on grounds relating to their particular situation at any time unless – as provided for by the Regulation - the Agency demonstrates compelling and overriding legitimate grounds or in case of legal claims.

However, these rights can be restricted in line with [Decision SC \(2020\) 26 of the INEA Steering Committee of 14 October 2020 \(OJEU L 45 09/02/21\)](#) on internal rules concerning the restrictions of certain rights of data subjects in relation to the processing of personal data. These rights can be exercised only at certain points in time and under the conditions as provided for in the relevant procedures (e.g. before the call submission deadline, etc). This is to safeguard the rights of other data subjects and to respect the principles of equal treatment among applicants and the secrecy of deliberations.

Right of rectification may only apply to factual data and as long as this remains in line with the Financial Regulation.

In order to grant or not the data subjects rights, the Agency will carry out a case-by-case assessment of each individual request and give the reasons underlying its decision, considering the type of information held and whether any exceptions of the Internal Rules are applicable.

The restrictions will continue applying as long as the reasons justifying them remain applicable and may be lifted if these reasons would no longer apply, if the exercise of the restricted right would no longer negatively impact the applicable procedure or adversely affect the rights or freedoms of the data subjects.

For every demand made by the data subject to block/erase data, the time to process and assess the legitimacy of it is evaluated on a case-by-case basis.

1. As long as the legitimacy of a request is not established, CINEA will answer the request of the applicant in order to complete the request and make it legitimate. The request will be legitimate when the following elements are established: · The request for blocking/erasure is signed; · It contains a serious motivation; · The identity of the signatory is established (copy of an ID card). The link between the signatory and the concerned economic operator is established (given by the form of recording of the exclusion or, otherwise: copy of extract of register, status, gazette), etc.

2. Within 15 working days of the receipt by the Authorising Officer of a legitimate request of blocking/erasure of the data, the information on the economic operator will be removed from EDES and will disappear one day after the removal (with the automatic daily update of the EDES). The economic operator concerned shall be informed of the removal and the subsequent decision by standard letter. Therefore, there will be no prejudice to the requestor should the examination take more than 15 working days.

3. If the examination of the request shows that the request of blocking/erasure is not justified, the information will be reinserted and the data subject concerned will be notified in writing within 10 working days about the entry.

The procedure to block/erase data will not have effects on the general processing operation taking place on the EDES.

7. How does CINEA protect and safeguard your data?

Relevant organisational and technical measures are taken by the Agency to ensure the security of your personal data. Access to your data is restricted on an individual need to know basis and through User-ID and password and can be accessed via authentication system. Your data resides on the servers of the European Commission, which abide by strict security measures implemented by DG DIGIT to protect the security and integrity of the relevant electronic assets. CINEA is also bound by Commission Decision 2017/46 of 10/1/17 on the security of communications & information systems in the EC.

The processing of your data will not include automated decision-making.

8. The legal basis of the processing are:

- 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 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

9. The time limits for keeping the data are the following:

The information on early detection will have a maximum duration of 1 year from the moment that the relevant case is validated by the Commission. The information is automatically removed at the end of the period.

If, during the retention period of information on early detection, CINEA requests the EDES panel 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, any information on early detection is removed by CINEA.

In any case, pursuant to the Financial Regulation, the duration of information on exclusion shall not exceed:

- the duration, if any, set by the final judgement or the final administrative decision of a Member State;
- in the absence of a final judgment or a final administrative decision:
 - Five years for 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 grave professional misconduct, significant deficiencies in complying with main obligations in the performance of a contract and irregularity

A person or entity shall be excluded as long as it is in one of the exclusion situations referred to in the Financial Regulation. Any decision of the authorising officer of CINEA or any recommendation of the EDES panel on the proposed duration of the exclusion shall be made in compliance with the principle of proportionality.

Any information published shall be removed as soon as the exclusion has come to an end. In the case of a financial penalty, 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 EDES 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 early detection and exclusion system database shall not exceed five years after the removal of the information.

CINEA keeps the EDES files (electronic and paper) for the administrative retention period of 5 years after the file has been closed, pursuant to the Commission Common Retention List (SEC(2019)900), point 4.2.3.bis "Management of the Early Detection and Exclusion System (EDES)". EDES files are considered closed when the final financial transactions involving the data subject are completed.

The personal data of the informant of the facts potentially giving rise to the registration of a case in the EDES will be deleted where possible before the elapse of a period of 5 years (after the first contact), unless necessary for budgetary discharge control or audit purposes. Regarding the latter, the information will be retained for a period of 5 years after the file has been closed.

10. Contact information

In case you have any questions about the collection/processing of your personal data, you may contact the data controller who is responsible for this processing activity by using the email address mentioned here above in Section 1

You may contact at any time the Data Protection Officer of the Agency (CINEA-DPO@ec.europa.eu). You have the right to have recourse at any time to the European Data Protection Supervisor (edps@edps.europa.eu).