



## **PROTECTION OF YOUR PERSONAL DATA**

**This privacy statement provides information about the processing and the protection of your personal data.**

**Processing operation: FPI Agreements with entities implementing funds under indirect management**

**Data Controller: Service for Foreign Policy Instruments, Finance, Contracts and Relations with other Institutions Unit (FPI.6)**

**Record reference: DPR-EC-01828.2**

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#### **1. Introduction**

The European Commission (hereafter ‘the Commission’) is committed to protect your personal data and to respect your privacy. The Commission collects and further processes personal data pursuant to [Regulation \(EU\) 2018/1725](#) of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data (repealing Regulation (EC) No 45/2001).

This privacy statement explains the reason for the processing of your personal data, the way we collect, handle and ensure protection of all personal data provided, how that information is used and what rights you have in relation to your personal data. It also specifies the contact details of the responsible Data Controller with whom you may exercise your rights, the Data Protection Officer and the European Data Protection Supervisor.

The information in relation to processing operation FPI Agreements with entities implementing funds under indirect management undertaken by Service for Foreign Policy Instruments, Finance, Contracts and Relations with other Institutions Unit (FPI.1 Unit) is presented below.

Please note that a separate privacy statement concerns FPI Agreements with entities implementing EU funds under indirect management in the area of Common Foreign and Security Policy (CFSP) and Common Security and Defence Policy (CSDP).

## **2. Why and how do we process your personal data?**

Purpose of the processing operation: The Service for Foreign Policy Instruments collects and uses your personal information for the purpose of negotiation, conclusion and implementation of agreements concluded between the Commission and entities implementing EU funds in indirect management under Article 62(1) (c) 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<sup>1</sup>, namely, contribution agreements. Processing by FPI Headquarters (HQ), as well as processing by the Regional Teams in EU Delegations (EUDEL) for the actions falling under FPI's scope of competence, are both covered.

Processing of personal data takes place using both automated means, in particular the Commission's electronic systems for the management of procurement/grant award procedures/contract execution/grant implementation (e.g. CRIS, OPSYS, ABAC, ARES) and manual means, such as paper files.

Your personal data will *not* be used for an automated decision-making including profiling.

## **3. On what legal ground(s) do we process your personal data**

The data processing is considered lawful because it is necessary for the performance of tasks carried out in the public interest and in the exercise of official authority vested in the Union institution on the basis 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, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.7.2018, p.1);

- Regulation (EU) No 236/2014 of the European Parliament and of the Council of 11 March 2014 laying down common rules and procedures for the implementation of the Union's instruments for financing external action (CIR) (OJ L 342, 29.12.2015, p. 7);

- Regulation (EU) No 230/2014 of the European Parliament and of the Council of 11 March 2014 establishing an instrument contributing to stability and peace (OJ L 77, 15.03.2014, p. 1);

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<sup>1</sup> 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, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012, (OJ L 193, 30.7.2018, p.1).

- Regulation (EU) No 234/2014 of the European Parliament and of the Council of 11 March 2014 establishing a Partnership Instrument for cooperation with third countries, OJ L 77, 15.3.2014, p. 77;

- Regulation (EU) No 235/2014 of the European Parliament and of the Council of 11 March 2014 establishing a financing instrument for democracy and human rights worldwide (OJ L 77, 15.03.2014, p. 85);

- 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 (OJ L 248, 18.9.2013, p. 1).

- Regulation setting up the Neighbourhood, Development and International Cooperation Instrument (NDICI)

- The contribution agreements concluded between the EU, on the one hand, and the entities implementing funds under indirect management pursuant to Article 62(1) (c) of the Financial Regulation.

The grounds for processing described above correspond to Article 5(1)(a) of Regulation (EU) 2018/1725.

#### **4. Which personal data do we collect and further process?**

In order to carry out this processing operation the Service for Foreign Policy Instruments collects the following categories of personal data:

A. Personal data of members of the staff of FPI in both HQ and Regional Teams EUDEL and/or any intra muros service provider of FPI, which may include in particular:

- Name;
- Function;
- Title;
- Contact details (e-mail address, business telephone number, mobile telephone number, fax number, postal address, department and office number, country of residence);
- Signature;
- Opinions.

B. Personal data of representatives/staff of the entities concluding agreements with the Commission and/or acting as contact points, which may include in particular:

- Name;
- Function;
- Title;
- Contact details (e-mail address, business telephone number, mobile telephone number, fax number, postal address, department and office number, country of residence);
- Signature;
- Opinions.

C. Personal data contained in the correspondence and supportive documents transmitted to the Commission for the implementation of the contribution agreement, which may include in particular:

- Name;
- Function;
- Title;

- Contact details (e-mail address, business telephone number, mobile telephone number, fax number, postal address, organisation and department, country of residence, internet address);
- Signature;
- Opinions;
- Any other type of data that may be collected by or transmitted to the Commission by any means for the purposes of the implementation of a contribution agreement.

E. Personal data of tenderers, grant applicants, contractors, subcontractors found by the partner entity and/or the Commission to be in an exclusion situation, which may include in particular:

- Name;
- Function;
- Title;
- Contact details (e-mail address, business telephone number, mobile telephone number, fax number, postal address, company and department, country of residence, internet address);
- Final judgments/decisions declaring the person to be in one of the exclusion situations set out in Article 136 of the Financial Regulation.

We have obtained your personal data from the organisation you are representing/are working for.

#### **5. How long do we keep your personal data?**

The Service for Foreign Policy Instruments only keeps your personal data for the time necessary to fulfil the purpose of collection or further processing. The retention periods are aligned with the Common Commission-Level Retention List (CRL)<sup>2</sup> of the European Commission.

Files on indirect management between the Commission and partner entity are kept for 10 years.

#### **6. How do we protect and safeguard your personal data?**

All personal data in electronic format (e-mails, documents, databases, uploaded batches of data, etc.) are stored either on the servers of the European Commission or of its contractors. All processing operations are carried out pursuant to the [Commission Decision \(EU, Euratom\) 2017/46](#) of 10 January 2017 on the security of communication and information systems in the European Commission.

In order to protect your personal data, the Commission has put in place a number of technical and organisational measures in place. Technical measures include appropriate actions 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. Organisational measures include restricting access to the personal data solely to authorised persons with a legitimate need to know for the purposes of this processing operation.

#### **7. Who has access to your personal data and to whom is it disclosed?**

Access to your personal data is provided to the Commission 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 within the EU organisation:*

- Staff and/or intra muros service providers of operational and financial Units of FPI in both HQs and Regional Teams in EUDEL participating in negotiation, conclusion and implementation of

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<sup>2</sup> Annex 1 to SEC(2019)900.

agreements with partner entities and in monitoring of implementation of specific actions by the partner entity – contracting authority under indirect management.

- Staff of OLAF, IDOC, IAS (Internal Audit Services), European Court of Auditors and the Legal Service of the Commission as well as staff of other DGs (SG, DG BUDG and clearinghouse) upon request necessary in the context of official investigations or for audit purposes.
- The European Parliament and the Council upon their request, in accordance with Article 155(7) of the Financial Regulation.

Recipients outside the EU organisation:

- Partner entity representatives/staff, solely for the purpose of performance, management and monitoring of the contribution agreements concluded between the Commission and the partner entity and for enabling the Commission to comply with its obligations under the applicable legislation and under the abovementioned agreements with the entity. To find more details about the transfer please consult the record of processing operation – see reference at point 10 below.

Transfer of personal data to International Organisations:

Transfers of personal data to International Organisations are likely to occur in the context of conclusion and implementation of agreements between the EU and the entities implementing EU funds in indirect management, for the Commission to carry out its tasks and to comply with its obligations under the applicable legislation and the agreements with the partner entities. Transfers might occur to partner entities with which the Commission has signed a contribution agreement pursuant to 155(6) and 156 of the Financial Regulation. Such transfers are very limited and strictly necessary to enable communication between the parties to the agreements and to allow the Commission to comply with its obligations under the applicable legislative framework and to the agreements with partner entities. These limited transfers take place on the basis of derogations as they are necessary for “important reason of public interest” (Article 50(1) (d) of Regulation 2018/1725). The conclusion of contracts in the implementation of external action corresponds to a policy interest of the Union recognized in articles 207(2), 209(1) and 212(2) of the Treaty on the Functioning of the European Union and hence, processing takes place in the public interest.

On the other hand, in indirect management, the partner entity contracting authority does make available personal data it collected to the Commission to allow the Commission to exercise its supervisory powers.

At the level of agreements with entities implementing EU funds under indirect management, the Commission does not make available personal data, other than:

A. Personal data of members of the staff of FPI in both HQ and Regional Teams in EUDEL and/or any service provider of FPI involved in procedures of negotiation/conclusion/implementation of agreements with partner entities. The types of personal data may include in particular:

- Name;
- Function;
- Title;
- Contact details (e-mail address, business telephone number, mobile telephone number, fax number, postal address, department and office number, country of residence);
- Signature;

B. Personal data of persons and/or entities found to be in an exclusion situation, made available by the Commission to the partner entity, may include in particular:

- Name;
- Function;
- Title;
- Contact details (e-mail address, business telephone number, mobile telephone number, fax number, postal address, department and office number, country of residence);
- Final judgments/decisions declaring the person to be in one of the exclusion situations set out in Article 136 of the Financial Regulation. These transfers are processed through the Commission's EDES system – see legacy notification [DPO-3853 DG BUDG Entry of a Data Subject in the Early Detection and Exclusion System \(EDES-DB\)](#).

The recipients of data in the partner entity and the instances in which data might be transferred include in particular representatives and/or staff of the partner entity acting as the interlocutors of the Commission staff and/or intra muros service providers in both HQ and Regional Teams in EUDEL. Personal data of Commission staff made available to the representatives/staff of the partner entity are very limited and strictly necessary for enabling communication. Information on persons and/or entities found to be in exclusion situations are made available to comply with the Commission's obligation under Article 142(5) of the Financial Regulation.

Partner entities are bound by clauses on the protection of personal data and by an obligation of confidentiality contained in the respective agreements signed between them and the EU.

Please note that pursuant to Article 3(13) of the Regulation, public authorities (e.g. Court of Auditors, EU Court of Justice) which may receive personal data in the framework of a particular inquiry in accordance with Union or Member State law shall not be regarded as recipients. The processing of those data by those public authorities shall be in compliance with the applicable data protection rules according to the purposes of the processing.

The information we collect will not be given to any third party, except to the extent and for the purpose we may be required to do so by law.

## **8. What are your rights and how can you exercise them?**

You have specific rights as a 'data subject' under Chapter III (Articles 14-25) of Regulation (EU) 2018/1725, in particular the right to access, your personal data and to rectify them in case your personal data are inaccurate or incomplete. Where applicable, you have the right to erase your personal data, to restrict the processing of your personal data, to object to the processing, and the right to data portability.

You have the right to object to the processing of your personal data, which is lawfully carried out pursuant to Article 5(1)(a) on grounds relating to your particular situation.

You can exercise your rights by contacting the Data Controller, or in case of conflict the Data Protection Officer. If necessary, you can also address the European Data Protection Supervisor. Their contact information is given under Heading 9 below.

Where you wish to exercise your rights in the context of one or several specific processing operations, please provide their description (i.e. their Record reference(s) as specified under Heading 10 below) in your request.

In certain circumstances, data subjects' rights may be restricted pursuant to Commission Decision (EU) 2018/1962 of 11 December 2018 laying down internal rules concerning the processing of personal data by the European Anti-Fraud Office (OLAF) in relation to the provision of information to data subjects and the restriction of certain of their rights in accordance with Article 25 of Regulation (EU) 2018/1725. Where Commission services process

personal data in instances referred to in Article 1(3) of the Commission Decision (EU) 2018/1962, they may, where necessary, apply restrictions in accordance with this decision. To that end, they shall consult OLAF, unless it is clear to the Commission service or executive agency concerned that the application of a restriction is justified under this decision.

## **9. Contact information**

### **- The Data Controller**

If you would like to exercise your rights under Regulation (EU) 2018/1725, or if you have comments, questions or concerns, or if you would like to submit a complaint regarding the collection and use of your personal data, please feel free to contact the Data Controller, [FPI-DATA-PROTECTION@ec.europa.eu](mailto:FPI-DATA-PROTECTION@ec.europa.eu).

### **The Data Protection Officer (DPO) of the Commission**

You may contact the Data Protection Officer ([DATA-PROTECTION-OFFICER@ec.europa.eu](mailto:DATA-PROTECTION-OFFICER@ec.europa.eu)) with regard to issues related to the processing of your personal data under Regulation (EU) 2018/1725.

### **- The European Data Protection Supervisor (EDPS)**

You have the right to have recourse (i.e. you can lodge a complaint) to the European Data Protection Supervisor ([edps@edps.europa.eu](mailto:edps@edps.europa.eu)) if you consider that your rights under Regulation (EU) 2018/1725 have been infringed as a result of the processing of your personal data by the Data Controller.

## **10. Where to find more detailed information?**

The Commission Data Protection Officer (DPO) publishes the register of all processing operations on personal data by the Commission, which have been documented and notified to him. You may access the register via the following link: <http://ec.europa.eu/dpo-register>.

This specific processing operation has been included in the DPO's public register with the following Record reference: DPR-EC-01828.