



RECORD OF PERSONAL DATA PROCESSING ACTIVITY

Record No: - Fin-03

Initial approval by Data Controller: n/a

Update (s): n/a

NAME OF THE PROCESSING ACTIVITY

Anti-Fraud procedure for analysis and signalling suspicions of irregularities and/or fraud to OLAF

IDENTIFICATION OF THE DATA CONTROLLER

The Head of Unit in C2 (Financial Support and Control) of the European Health and Digital Executive Agency (HaDEA), Place Charles Rogier 16, B-1049 Brussels, BELGIUM and can be contacted via HADEA-ANTI-FRAUD@ec.europa.eu

GROUND FOR THIS RECORD (*select relevant ground*)

- Record of a new type of processing activity of personal data (before its implementation)
- Record of a processing activity of personal data that is already in place
- Change/Amendment/ Update of an already existing previous record

1. INFORMATION ON THE PROCESSING ACTIVITY

of Anti-Fraud procedure for analysis and signalling suspicions of irregularities and/or fraud to OLAF

This processing activity is performed in accordance with **Regulation (EU) No 2018/1725**¹ on the protection of individuals with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data.

1.1. The Data Controller is:

The Head of Unit in C2 (Financial Support and Control) of the European Health and Digital Executive Agency (HaDEA), Place Charles Rogier 16, B-1049 Brussels, BELGIUM and can be contacted via HADEA-ANTI-FRAUD@ec.europa.eu

1.2 The contact details of the Data Protection Officer (DPO)

HADEA-DPO@ec.europa.eu

1.3 Joint controller: Not applicable.

1.4 The following entity(ies) is/are acting as Processor(s): Not Applicable

1.5 Description and purpose(s) of this processing :

Management of suspicions of irregularities/fraud in i) procurement contracts and grants management, at the selection and/or implementation stage, by applicants, beneficiaries, experts, subcontractors from all programmes managed by HaDEA should it be legal entities or natural persons; ii) HaDEA staff.

Most of the data relates to organisations (public or private companies entities) but it includes also the names, functions, contact data and activities to be implemented (application) or implemented (reports) by personnel, experts and (sub)contractors involved in the projects or by service providers.

The origin of the suspicion can be: desk reviews, audits, a denunciation made to HaDEA by anyone (inside or outside the applicant/beneficiary partnership), anonymously or not, an OLAF request or at request of national authorities in charge of investigating/prosecuting fraud allegations (police, antifraud office, financial or judicial authorities, etc.).

For suspicions received/discovered by HaDEA, if the internal preliminary controls leads to a transmission to OLAF, all documents related to the suspicious applications and/or projects (consultation including personal data) concerned are transmitted to OLAF, after prior parent DG's consultation.

For OLAF requests, all requested documents and information related to the suspicious applications and/or projects concerned are gathered and transmitted to OLAF.

In case of requests by Judicial National authorities, there is a prior consultation of the parent DGs, OLAF and HaDEA DPO.

¹ [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, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295/39 of 21.11.2018).
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The purpose of this processing operation is to :

- The processing operation is necessary to prevent and detect fraud, as well as other financial irregularities or conflict of interest committed/incurred at the level of the applicants under call for proposals/tenderers under call for tenders and /or beneficiaries under grants /contractors under public procurement, and ensure sound financial management of the EU funds which are managed by the Agency. In particular, it is necessary to analyse information which may contain personal data relating to potential fraud or other financial irregularities and decide on whether it should be transferred to the European Anti-Fraud Office (“OLAF”) or not. Alternatively, ex-post financial audits or technical audits may be launched and/or other precautionary measures taken.
- Answer to requests received from other EU Institutions and bodies (e.g. Commission DGs, EPPO, OLAF) or national authorities (police, antifraud office, financial or judicial authorities etc) for their investigations and controls.

1.6 The legal basis for the processing based on Article 5(1) of Regulation (EU) 2018/1725 is/are:

- (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 Union Institution or body² laid down in Union law;
- (a2) the processing is necessary for the **management and functioning** of the Union Institutions, bodies or agencies (Recital (22) of Regulation (EU) 2018/1725) laid down in Union law;
- (b) the processing is necessary for compliance with a legal obligation to which the controller is subject, which are listed below (laid down in Union law):
 - 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);
 - Regulation (EU, Euratom) 2024/2509 of the European Parliament and of the Council of 23 September 2024 on the financial rules applicable to the general budget of the Union (“the Financial Regulation”), OJ L, 2024/2509, 26.9.2024;
 - 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
 - Commission Decision C(2021)948 of 12 February 2021 delegating powers to the European Health and Digital Executive Agency with a view to the performance of tasks linked to the implementation of Union programmes in the field of EU4Health, Single Market, Research and Innovation, Digital Europe, Connecting Europe Facility – Digital, comprising, in particular, implementation of appropriations entered in the general budget of the Union
 - Regulation (EU, EURATOM) No 883/2013 of the European Parliament and of the Council

² [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.
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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;

- 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;
- Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ('the EPPO').
- Council Regulation (EC) No 58/2003 of 19 December 2002 laying down the statute for executive agencies to be entrusted with certain tasks in the management of Community programmes.
- Commission Decision of 10.7.2020 - C(2020) 4584 amending Decision C(2018) 5119 on the internal procedure provisions for the recovery of amounts receivable arising from direct management and the recovery of fines, lump sums and penalty payments under the Treaties;
- Administrative arrangements on co-operation and a timely exchange of information between the European Commission and the European Anti-Fraud Office (OLAF), 4.12.2018 and General Memorandum of Understanding between the Agency and its parent DGs;
- Interinstitutional Agreement between the European Parliament, the Council of the European Union and the Commission of the European Communities concerning internal investigations by the European Anti-Fraud Office (OLAF), OJ L 136/15, 31.5.1999;
- HaDEA's Steering Committee decision of SC07(2022)44 laying down internal rules to prevent fraud, corruption and any illegal activity detrimental to the Communities' interest.
- Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Union, , Articles 11 to 26a on staff duties.

- (c) the processing is necessary for the **performance of a contract** to which the data subject is party or in order to take steps at the request of the data subject prior to entering into a contract;
- (d) the data subject has given **consent** to the processing of his or her personal data for one or more specific purposes³;
- (e) the processing is necessary in order to protect the **vital interests** of the data subject or of another natural person.

1.7 The categories of data subjects

- Agency staff (Contractual and temporary staff in active position)
- Visitors to the Agency
- Applicants
- Relatives of the data subject
- Complainants, correspondents and enquirers

³ *The type of personal data concerned by the consent has to be clearly identified!*
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- Witnesses
- Beneficiaries
- External experts
- Contractors
- Other, please specify: whistle-blowers, informants, interns and interim staff of the Agency

1.8 Categories of personal data

The categories of personal data that may be collected and/or processed depending on the context of the case and on a case-by-case analysis are the following:

- Identification data: Last name, first name, address, e-mail, phone number (s), etc.;
- Data relating to the data subject's professional details: position within the entity, function, unit, etc.;
- Data related to education: university, degree, 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: banking details such the account number and the name of the bank account's holder;
- Data related to offences and criminal convictions (Art. 11 of the Regulation).

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.

These data might be found in timesheets, curriculum vitae, reports (interim, final) of staff members / representatives / members of scientific team of beneficiaries involved in grant agreements or contractors involved in public procurement, in prefinancing, payments, in recovery orders etc.

The persons in charge of the above-mentioned processing operations in HaDEA are obliged to process the relevant data only to the extent necessary and proportionate in relation to the files of potential fraud and/or other financial irregularities.

1.9 Retention period (maximum time limit for keeping the personal data)

HaDEA applies the principles and retention periods indicated in Common Retention List of the Commission (Third revision of the Common Commission-level retention list for European Commission files) by analogy.

The data collected and/or processed in the frame of the above-mentioned processing is kept under the relevant project (under call for proposals) or contract (under public procurement) file and is subject to the overall retention policy for that grant management/contract file.

With regards files on the activities by OLAF to protect the financial interests of the EU and to fight fraud, corruption and any other illegal activity, including within the European institutions, bodies and agencies - but excluding its activities with regards to Commission personnel - according to the Common Commission-level Retention List of Annex 1 "CLR management schedule of the Common Commission-level retention list for European Commission files – third revision", approved by the Secretary General of the European Commission (SEC(2022)400, Ref. Ares(2022)8801492 – 19/12/2022), the retention periods are as follows:

- Files concerning dismissed cases: 15 years after the end of the project or contract (under public procurement);
- Files concerning investigative cases with recommendations and the related follow-up actions: 15 years from the receipt of the OLAF decision to finalise the investigation with recommendations (under OLAF retention period);
- Files concerning investigative cases without recommendations and with no monitored follow-up actions: 15 years after the end of the project or contract (under public procurement);
- Files on HaDEA cooperation with OLAF in its investigations: 5 years after the end of the project or contract (under public procurement).

In case the retention period expires when an inspection task (e.g. audit) or a judicial proceeding related to the file is ongoing, the personal data is retained for the time necessary to the finalisation of such inspection tasks or settlement of the judicial proceeding. Data will be deleted at the end of the above-mentioned period.

Is any further processing for historical, statistical or scientific purposes envisaged?

yes no

We do not have to further process/keep the personal data for public interest, scientific or historical research purposes or statistical purposes. Only non-personal data related to 5 organisations (type of organisation, country, programme concerned by fraud are used for statistical purposes (risk assessment).

1.10 The recipient(s) of the data

The recipients to whom the personal data will or might be disclosed are:

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

- The Director of the Agency
- Authorised members of HaDEA staff when relevant:
 - HoUs and DHoUs of the units
 - Anti-fraud correspondents of the units
 - Staff in units for horizontal services: finance unit (C1), legal team (C.2.003)
- The OLAF/EPPO correspondents within HaDEA

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

- Members of the HaDEA Steering Committee;
- Anti-fraud correspondents within the European Commission and/or other Executive Agencies for the purpose of coordination and exchange of information;
- European Antifraud Office (OLAF);
- Authorised staff from the parent Directorates-General (i.e. OLAF correspondents and their respective HoUs of the parent Directorates-General)
- The members of EDES Panel referred to in Article 145 of the Financial Regulation, Panel's secretariat and other authorised staff from DG BUDG;
- Authorised staff from Legal Service of the European Commission.

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;
- Investigation and Disciplinary Office (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 of the EC Treaty 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;
- 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.

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

Personal data **will not be transferred to third countries or international organisations.**

Documents related to suspicious projects and/application can be requested by and transferred to National authorities (judicial, fiscal, police) when EU funds are subjects to potential fraud under investigations. The third countries where the data can be transferred can be anywhere, depending on the country of establishment of the recipient of EU funds where the fraud investigation takes place.

Safeguards: Such transfer is decided and made by OLAF in accordance with the legal framework. In case the third country of destination is not covered by an adequacy decision or in absence of adequate safeguards in place (e.g. administrative arrangement), the transfer might take place based on a derogation under Article 50(1) of Regulation 2018/1725, in particular if necessary for important reason of public interest (article 50(1)d), or for the establishment, exercise or defence of legal claim (article 50(1)e).

1.12 The processing of this personal data **will not include** automated decision-making (such as profiling): Not applicable

1.13 Description of security measures

The following technical and organisational security measures are in place to safeguard the processing of this personal data:

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 10/1/2017 on the security of communications & information systems in the European Commission.

An Outlook functional mailbox is created and used for the purpose of handling OLAF and/or EPPO cases and is under SECEM encryption: access to this mailbox is restricted on a need-to-know basis to the staff members designated to handle these cases.

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

Paper files related to OLAF/ 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 HaDEA's anti-fraud page available at [Information and Guidance](#)

1.14 Data protection Notice

Data Subjects are informed on the processing of their personal data via a **data protection notice on their rights** :

- to access their personal data held by a controller;
- to request their personal data held by a controller to be corrected;
- to obtain in some situations erasure of their personal data held by a controller, e.g. when data are held unlawfully (right to be forgotten);
- to withdraw consent at any time, without affecting the lawfulness of processing based on consent before its withdrawal;
- **of recourse** at any time to the **HaDEA Data Protection Officer** at HADEA-DPO@ec.europa.eu and to the **European Data Protection Supervisor** at <https://edps.europa.eu>.

Request from a data subject to exercise a right will be dealt within **one month**.

Your right to information, access, rectification, erasure, restriction or objection to processing, communication of a personal data breach or confidentiality of electronic communications may be restricted only under certain specific conditions as set out in the **applicable [Restriction Decision](#)** in accordance with Article 25 of Regulation (EU) 2018/1725.

