



RECORD OF PERSONAL DATA PROCESSING

Record n°

15/2020

In accordance with Article 31 of the new Regulation, individuals whose personal data are processed by the Executive Agency in any context whatsoever are to be protected with regard to the processing of personal data and the Executive Agency has to keep records of their processing operations.

This record covers two aspects:

1. Mandatory records under Art 31 of the new Regulation (recommendation: make the header and part 1 publicly available)
2. Compliance check and risk screening (initial; part 2 is internal only to the Agency, not published)

The ground for the record is (tick the relevant one):

- Regularization of a data processing operation already carried out
- Record of a new data processing operation prior to its implementation
- Change of a data processing operation.

(This part may be public)		
Name of the processing operation		
Legal advice on ERCEA matters, including Ombudsman complaints, Article 22 requests and court cases		
1	Last update of this record if applicable	30/09/2014 Ares(2014)3212000
2	Short description of the processing	In the context of the Legal Sector's activities, the processing of personal data occurs when the latter provides legal advice on legal matters in relation to the Agency activities as well as handles Ombudsman complaints, requests for legal review in accordance with Article 22 of Regulation 58/2003 (Article 22 requests), litigation procedures and questions for written answer from the European Parliament.
Part 1 - Article 31 Record		
4	Function and contact details of controller	(Acting) Head of Unit D3 "Legal Affairs and Internal Control" Laurence Moreau Laurence.Moreau@ec.europa.eu
5	Contact details of the Data Protection Officer (DPO)	ERC-DATA-PROTECTION@EC.EUROPA.EU

6	Name and contact details of joint controller (where applicable)	N/A
7	Name and contact details of processor (where applicable)	N/A
8	Purpose of the processing	The purpose of the processing is the assurance of the daily functioning of the Agency in compliance with the applicable laws and procedures by providing replies to the requests for legal advice and by handling Ombudsman complaints, Article 22 requests, court cases and questions for written answer from European Parliament, whilst ensuring the required accuracy in carrying out the mentioned tasks.
9	Description of the categories of data subjects	<p>Whose personal data are being processed?</p> <p><input checked="" type="checkbox"/> EA staff (Contractual and temporary staff in active position (in their capacity as individual persons when a file relates to his/her duties))</p> <p><input type="checkbox"/> Visitors to the EA</p> <p><input checked="" type="checkbox"/> Contractors providing goods or services (including external lawyers entrusted litigation assistance tasks)</p> <p><input checked="" type="checkbox"/> Applicants</p> <p><input type="checkbox"/> Relatives of the data subject</p> <p><input checked="" type="checkbox"/> Complainants, correspondents and enquirers</p> <p><input checked="" type="checkbox"/> Witnesses</p> <p><input checked="" type="checkbox"/> Beneficiaries</p> <p><input checked="" type="checkbox"/> External experts</p> <p><input checked="" type="checkbox"/> Other, please specify: staff of other EU institutions or bodies</p>
10	<p>Description of personal data categories</p> <p>Indicate all the categories of personal data processed and specify which personal data are being processed for each category (between brackets under/next to each category):</p>	<p>Categories of personal data:</p> <p><input checked="" type="checkbox"/> in the form of personal identification numbers (staff numbers and ID numbers)</p> <p><input checked="" type="checkbox"/> concerning the physical characteristics of persons as well as the image, voice or fingerprints (pictures in ID documents)</p> <p><input checked="" type="checkbox"/> concerning the data subject's private sphere (nationality)</p> <p><input checked="" type="checkbox"/> concerning pay, allowances and bank accounts (information on the calculation of the pay and allowance, bank account details)</p> <p><input checked="" type="checkbox"/> concerning recruitment and contracts (selection, information (scores, evaluation grids), startind date of contracts, grades and seniority in the grade, function group)</p> <p><input checked="" type="checkbox"/> concerning the data subject's family (family</p>

		<p>composition, birth date, nationality, marital status)</p> <ul style="list-style-type: none"> <input checked="" type="checkbox"/> concerning the data subject's career (curriculum vitae, appraisal reports and reclassification) <input checked="" type="checkbox"/> concerning leave and absences (concerning starting/end dates, type of leave, justification) <input checked="" type="checkbox"/> concerning missions and journeys (concerning starting/end dates and routes) <input checked="" type="checkbox"/> concerning social security and pensions (rights, allowances and benefits) <input checked="" type="checkbox"/> concerning expenses and medical benefits (invoice for reimbursement of cost claim) <input checked="" type="checkbox"/> concerning telephone numbers and communications (including the private one) <input checked="" type="checkbox"/> concerning names and addresses (including email addresses) <input checked="" type="checkbox"/> Other :please specify :concerning expenses/reimbursement claims by experts. <p>Categories of personal data processing likely to present specific risks:</p> <ul style="list-style-type: none"> <input checked="" type="checkbox"/> data relating to suspected offences, offences, criminal convictions or security measures (as part of the legal advice processing only: data concerning ongoing criminal related court cases, OLAF investigations, administrative and disciplinary procedures, EDES related information). <input checked="" type="checkbox"/> data being used to evaluate personal aspects of the data subject (ability, efficiency, conduct) <p>Categories of personal data whose processing is prohibited, with exceptions (art. 10 new Regulation):</p> <ul style="list-style-type: none"> <input type="checkbox"/> revealing racial or ethnic origin <input type="checkbox"/> revealing political opinions <input type="checkbox"/> revealing religious or philosophical beliefs <input type="checkbox"/> revealing trade-union membership <input type="checkbox"/> concerning health <input type="checkbox"/> genetic data, biometric data for the purpose of uniquely identifying a natural person <input type="checkbox"/> concerning sex life or sexual orientation
11	<p>Retention time (time limit for keeping the personal data)</p>	<p>In general, data will be kept for 5 years from closure of a case or consultation.</p> <p>Answers to requests for legal advice may be kept for a maximum duration until the end of the implementation of the related research framework programme as it is necessary to guarantee coherence in legal advice.</p> <p>In addition and as a general rule, documents related to consultations are kept by the Legal Sector as long as there is a risk of potential litigation or follow-up before relevant authorities. This is also the case for the handling of Article 22 requests, since the Commission Decision closing each case may be challenged before</p>

		<p>the General Court by the complainant, and thus may trigger a court case for which ERCEA needs to provide a contribution so as to support the Commission's Legal Service prepare its submission(s) before the court.</p> <p>The final date for completing operations related to the 7th Framework Programme is 31/12/2022. The final date of the duration of Horizon 2020 is 31/12/2020, whereas the provisional date for completing operations related to Horizon 2020 is 31/12/2028. A case is considered closed once the final decision has been taken by the authority concerned.</p> <p>Is any further processing for archiving purposes in the public interest, historical, statistical or scientific purposes envisaged? <input type="checkbox"/> yes <input checked="" type="checkbox"/> no</p>
12	<p>Recipients of the data</p>	<p>Depending on the case: the Executive Director of the Agency, members of the management, staff members of the Agency, any party to Ombudsman or court cases, staff members of the Common Legal Support Service in DG RTD, staff members of the relevant Commission services (Legal Service, Secretariat General, DG BUDG, DG RTD, DG HR, DIGIT) or of OLAF, the European Ombudsman, the European Data Protection Supervisor, General Court and Court of Justice of the European Union on a need to know basis.</p> <p>Where data concerns applicants, grantees or contractors, it may be transmitted to the European Commission for the implementation of the institutional tasks as provided by Council Decision 2006/972/EC, Council Decision 2013/743/EU and Regulation 58/2003.</p> <p>Where data is transmitted to the European Ombudsman, the Agency executes a request of the Ombudsman which falls under its investigative powers (Art. 228 of the Treaty on the Functioning of the EU).</p> <p>Where data is transmitted to the Court of Justice concerning applicants, grantees, contractors, staff members or candidates to ERCEA selection procedures, the Agency complies with the provisions of Art. 251 to 281 of the Treaty on the Functioning of the EU.</p> <p>Where data is transmitted to the Translation Centre for the Bodies of the EU in the context of a request for translation of any submission received or to be lodged through e-curia and any complaint or reply to complaint submitted to the European Ombudsman, when necessary, the confidentiality of these documents is preserved in accordance with Article 6(1) of the applicable Service Level Agreement signed with the Translation Centre.</p> <p>Where data is transmitted to the external lawyer contracted to provide legal assistance to the ERCEA's legal agents in the context of the handling of a court case, the transfer of data will be done in full respect of the contractual clauses regarding data protection. If</p>

		these data are transmitted in an electronic format, this will be done by means of a USB-key secured by a password.
13	Are there any transfers of personal data to third countries or international organisations? If so, to which ones and with which safeguards?	No
14	General description of the technical and organisational security measures	<p>The Legal Sector communicates mainly via a specific functional mailbox. Access to the FMB is strictly limited to the members of the Legal Sector as well as to the Head of Unit D3. Answers to requests via the FMB and related legal opinions issued by D3 in writing are stored in the shared drive of the FMB.</p> <p>Notes or letters are answered by D3 legal officers and the answers registered and filed in Ares, the document management system used by ERCEA.</p> <p>Complaints sent to the Ombudsman are forwarded by the Ombudsman to the Agency for observation and managed through the IT application maintained by the Secretariat General of the Commission (the "Sec Gen"). The same system is used for the transmission to the Agency from the Commission of the questions for written answer received from the European parliament. The system is only partially accessible by the Head of unit D3 and the legal officer(s) in charge of Ombudsman files.</p> <p>ERCEA positions in answer to the requests for contribution regarding Article 22 requests and court cases lodged before the European Commission are sent to the parent DG (DG RTD's Common Legal Support Service) through Areslook (from the FMB). In the preparation process of such positions, internal consultations are conducted through e-mail involving the concerned units/colleagues on a strict need-to-know basis.</p> <p>Litigation documents are sent to and uploaded by the D3 Legal Sector through e-curia (an electronic database managed by the Court of Justice of the European Union). Internal documents concerning litigation are managed within the Agency through Ares and e-mail. For such internal transmissions, confidential markings in Ares and SECEM are used.</p>
15	Information to data subjects/Data Protection Notice (DPN)	<p>A Data Protection Notice will be published in the Agency's intranet (see attachment to this notification). https://erc.europa.eu/document-library/results?f%5B0%5D=field_document_category%253Aparents_all%3A43</p>