



EUROPEAN COMMISSION

## **PROTECTION OF YOUR PERSONAL DATA**

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

**Processing operation: Privacy Statement for the database of the Early Detection and Exclusion System (EDES)**

**Data Controller: Directorate General for Budget – Central Financial Service - Unit BUDG.D.1**

**Record reference: DPR-EC-04410**

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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 "Entry of a Data Subject in the Early Detection and Exclusion System (EDES-DB)" undertaken by Unit BUDG.D.1 of the Directorate-General for Budget is presented below.

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

Purpose of the processing operation: The purpose of the processing operation is the protection of the Union's financial interests by means of detection of risks and imposition of administrative sanctions.

In particular, the purpose of the EDES database is:

- the early detection of risks threatening the Union's financial interests;
- the exclusion of a person or entity which is in one of the exclusion situations listed in Article 136(1) of the FR;
- the imposition of a financial penalty on a person or entity pursuant to Article 138 of the FR;
- the publication on the Commission's internet site of information related to the exclusion and where applicable the financial penalty, in order to reinforce their deterrent effect (140 of the FR).

Pursuant to article 142 (1) of the Regulation (EU, Euratom) 2018/10461 of the European Parliament and of the Council (hereinafter "the Financial Regulation" or "FR") which entered into force on 2 August 2018, a database is set up by the Commission for the purposes of the early detection and exclusion system (hereinafter "EDES") with a view to make available information to all persons or entities involved in the implementation of the budget and so to enable them to protect the European Union's financial interests.

A Panel is set-up to assess requests and issue recommendations for exclusion and financial penalty referred to it by an authorizing officer of any Union institution, Union body, Executive Agency or other agency, European office or body or person entrusted with the implementation of specific actions in the CFSP pursuant to Title V of the TEU (Article 143(1) of the Financial Regulation). The competent authorising officer will refer a case to the Panel for a central assessment where there are no final judgments or final administrative decisions related to the exclusion and its duration or to the financial penalty, and their publication. The Panel will also be competent to ensure the rights of defence of the person or entity.

Information on early detection or exclusion will be entered in the EDES database by the competent authorising officer after notifying the person or entity concerned, except in cases

where there are legitimate compelling grounds in exceptional circumstances to preserve the confidentiality of an investigation or of national judicial proceedings. The European Commission controls and validates the cases prepared by the competent authorising officer before the activation in the database.

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 relevant legal basis is laid down under Articles 135-145 of the Financial Regulation. In particular, the purpose of the processing operation is the protection of the Union's financial interests by means of detection of risks and imposition of administrative sanctions. Pursuant to article 135 (1) of the Financial Regulation, in order to protect the financial interests of the Union, the Commission shall set up and operate an early-detection and exclusion system.

The processing operation on personal data carried out in this context of are necessary and lawful under Article 5(1)(a), (b) and (c) of Regulation (EU) 1725/2018:

(a) 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 body;

(b) processing is necessary for compliance with a legal obligation to which the controller is subject;

Some categories of personal data which may be processed, pursuant to article 136 (1) of the Financial Regulation may relate to criminal convictions and offences, in accordance with Article 11 of Regulation (EU) 1725/2018.

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

Categories of personal data that will be processed in the EDES on a case-by-case basis are the following:

For natural persons falling under Article 135(2) of the Financial Regulation (hereinafter referred to as "person"):

- 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 (if existing) with a legal entity file kept in the accounting system of the Commission;
- Data on exclusion or early detection or financial penalty;
- Ground of early detection or exclusion or financial penalty in accordance with article 136 (1) of FR;
- Data on the duration of the exclusion or early detection: starting date, ending date, extension;
- Data on the panel (143(1) of FR): if the case is submitted to the panel, date of the panel, if observations were submitted by the person, if the recommendation of the panel was taken into account, revision of the panel's recommendation, etc.
- Data on the financial penalty: amount, if the amount was paid;
- Authorising officer responsible for the case;
- Contact person responsible for the case.

For natural persons who are members of the administrative, management or supervisory body of the person or entity referred to in Article 135(2), or who have powers of representation, decision or control with regard to that person or entity and who are in a situation listed in article 136, paragraph 1, points (c) to (h) of the Financial Regulation, pursuant to article 136, paragraph 4 (a) 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 that person or entity: identification of the person or entity 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 that person or entity.

For natural persons who are essential for the award or for the implementation of the legal commitment and who are in a situation listed in article 136, paragraph 1, points (c) to (h) of the Financial Regulation, pursuant to article 136, paragraph 4 (c) 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 a person or entity falling under Article 135(2) FR.

For natural persons who assume unlimited liability for the debts of the person or entity referred to in Article 135(2) and who are in a situation listed in article 136, paragraph 1, point (a) or (b) of the Financial Regulation, pursuant to article 136, paragraph 4 (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 that person or entity: identification of the person or entity and if the natural person is a person who assumes unlimited liability for the debts of that person or entity.

Pursuant to article 140(1) of the FR, the following data may be published subject to the decision of the authorising officer responsible:

- Identification data: name and address of the person or entity concerned;
- Data on exclusion and grounds of exclusion (article 136 (1) of the FR);
- 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 FR, 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 responsible, shall be published without delay.

Some categories of personal data which may be processed, pursuant to article 136 (1) of the Financial Regulation may relate to criminal convictions and offences:

- 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, conduct related to a criminal organisation, money laundering, offences linked to terrorist activities, child labour or other offences concerning trafficking in human beings;
- Data relating to significant deficiencies in complying with main obligations in the implementation of a legal commitment;
- Data relating to an irregularity;
- Data relating to creation of an entity in a different jurisdiction with the intent to circumvent fiscal, social or any other legal obligations in the jurisdiction of its registered office, central administration or principal place of business.

We have obtained your personal data from the responsible authorising officer and they are contained in sources as the ones provided for under Article 136(2), 4<sup>th</sup> subparagraph as well as Article 142(2) of the Financial Regulation.

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

Unit BUDG.D.1 of the Directorate-General for Budget only keeps your personal data for the time necessary to fulfil the purpose of collection or further processing,

##### Early detection

Information on early detection is registered for a maximum duration of 1 year from the moment that the relevant case is validated by the Commission. It is automatically removed at the end of this period. If, during this period, the authorising officer requests the panel referred to in Article 143 of the FR to issue a recommendation in an exclusion case, the retention period may be extended until the authorising officer responsible has taken a decision.

##### Exclusion

The duration of the exclusion shall not exceed:

- a) Five years for cases referred to in point (d) of paragraph 1 of article 136 of the FR (cases of fraud, corruption, conduct related to criminal organisation, money laundering, offences linked to terrorist activities, child labour or other offences related to trafficking in human beings);
- b) Three years for the cases referred to in points (c) and (e) to (h) of paragraph 1 of article 136 of the FR (grave professional misconduct, significant deficiencies in complying with main obligations in the performance of a legal commitment, irregularity and shell companies);
- c) The duration, if any, set by the final judgement or the final administrative decision of a Member State.

In the cases of points (a) and (b) of paragraph 1 of article 136 of the FR, the duration of the exclusion will correspond with the period in which the exclusion ground is valid (bankruptcy, insolvency or winding-up procedures, or an analogous situation, non-payment of taxes or social security contributions).

Any decision of the authorising officer or any recommendation of the panel referred to in article 143 on the proposed duration of the exclusion shall be made in compliance with the principle of proportionality (article 136 (3) of the FR).

##### Financial Penalty

In case of a financial penalty, if the relevant information has been published, the publication shall be removed six months after payment of that penalty (140(1) 4<sup>th</sup> subparagraph FR).

The information on early detection and/or exclusion will be removed as soon as the time period has elapsed if the authorising officer has not removed it before the end of its duration.

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 panel referred to in article 143 (pursuant to article 136 (3) of the FR). The removed information shall not be visible for the users of the EDES database. The additional period that this information will remain in the EDES-DB shall not exceed five years after the removal of the information. This is in line with Article 75 of the FR.

## **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. 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.

The database benefits from the applicable security measures in the European Commission. Concerning unauthorised access to equipment and data, network firewalls protect the logic perimeter of the EDES database and access is filtered to allow solely registered users through EU Login. Administrative measures include the obligation of all authorised users to be registered and access to the EDES database is recorded (logfile).

## **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.

In addition to the controller and the staff managing the EDES database, duly authorised persons (persons from the Commission or from other institutions, offices, bodies, agencies, entities referred to points (c), (d), (e) of article 142 (2) of the Financial Regulation) have access to the EDES database. In addition, authorised persons (including external experts and contractors), within the Commission and Executive Agencies, who comply with the obligations of confidentiality, data protection and avoidance of conflict of interests and develop, maintain, test, and support the EDES database have access to the information contained in the EDES database. Recipients of the data of the EDES are the following:

- Authorised persons within the Commission and the Executive Agencies for information concerning early detection, exclusion and financial penalty;
- Authorised persons within all other Institutions, bodies, European offices and agencies for information concerning early detection, exclusion and financial penalty;
- Members of the Panel referred to in article 143 FR: a high level independent chair, 2 permanent representatives of the Commission and a representative of the requesting authorising officer;

- Authorised persons from all entities participating in the implementation of the budget in accordance with articles 62(1)(b) and (c) of the Financial Regulation only for exclusion decisions;
- European Court of Auditors, European Anti-Fraud office (OLAF), Commission Internal Audit Service (IAS) for all data that are in the EDES database for audit /investigation purposes.
- Authorised persons within the Commission and of the Executive Agencies who work for the purposes of developing, maintaining, testing, and supporting the EDES database.
- External experts and contractors authorised to work on behalf of the Commission for the purposes of developing, maintaining, testing, and supporting the EDES database.

The public is the recipient regarding cases which are made available on the public website of the EDES related to exclusion and where applicable, the financial penalty (article 140(1) of the Financial Regulation). However, personal data will not be published, unless their publication 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 duly takes into consideration the right to the protection of personal data provided for in Regulation (EU) 2018/1725.

Authorised persons from all entities participating in the implementation of the budget in accordance with article 62(1)(b) and (c) FR will have access to the information on exclusion decisions also for the part of the database that is not open to the public (Article 142(5) of the Financial Regulation).

The controller will transfer your personal data to the following recipients in a third country or to an international organisation in accordance with Regulation (EU) 2018/1725:

- (i) Member States;
- (ii) third countries or the bodies they have designated;
- (iii) international organisations and their agencies;
- (iv) public law bodies, including Member State organisations;
- (v) bodies governed by private law with a public service mission to the extent that they provide adequate financial guarantees;
- (vi) bodies governed by the private law of a Member State that are entrusted with the implementation of a public-private partnership and that are provided with adequate financial guarantees;
- (vii) 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.

The controller will transfer your personal data based on:

Specific clauses will be inserted in the contribution agreements, delegation agreements, financial framework partnership agreements, etc. in order to fully respect article 48 (2)(a) and Article 50(1)(d) of Regulation 2018/1725.

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.

Any such request should be directed to the authorising officer responsible. You can also exercise your rights regarding data stored in the EDES Database 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.

## **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 stored in the EDES database, please feel free to contact the Data Controller: Unit BUDG.D.1 of the Directorate-General for Budget through the functional mailbox [BUDG-EDES-DB@ec.europa.eu](mailto:BUDG-EDES-DB@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-04410.