



EUROPEAN COMMISSION

## **PROTECTION OF YOUR PERSONAL DATA**

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

**Processing operation:** Management of the Commission's archives

**Data Controller:** SG.C.1 - Transparency, Document Management & Access to Documents

**Record reference:** DPR-EC-00837

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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.

This privacy statement concerns the processing operation “Management of the European Commission’s archives”, undertaken by SG.C.1 – Transparency, Document Management & Access to Documents.

The Historical Archives Service of the Commission (OIB.OS1.002) conducts part of the processing of this processing operation that goes beyond the transferring of files to the Historical Archives Service. The Historical Archives Service processes personal data to assess archives submitted for transfer, to ingest, process and manage transferred content, perform searches on it and make it available to the Commission departments or services upon request. The Historical Archives Service describes transferred content and reviews its accessibility against the exceptions to disclosure foreseen in Council Regulation No 354/83 and deposits it at the European University Institute (EUI) in Florence, Italy, after it opened the selected archives to the public in accordance with this Council Regulation.

Every Commission department or service transferring files to the Historical Archives Service processes personal data covered by this record as ‘de facto’ controller.

The European University Institute, established in Florence (Italy), acts as a processor under instructions from the Commission. It processes personal data contained in the Commission’s historical archives during its task of ensuring the preservation and protection of deposited archives and makes the historical archives available to the public. You can find more detailed information about the EUI’s role in chapter 6 of this privacy statement.

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

Purpose of the processing operation: SG.C.1 collects and uses your personal information to

- ensure that documents of historical or administrative value are selected for permanent preservation and opened to the public wherever possible, as required by the Archives Regulation<sup>1</sup>. As also required by the Archives Regulation, after they are opened to the public, the historical archives of the Commission are deposited at the EU Historical Archives at the European University Institute in Florence, Italy.
- be able to retrieve archived Commission documents in order to fulfil internal business purposes, including business continuity and the processing of public access to documents requests.

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<sup>1</sup> Council Regulation No. 354/83 concerning the opening to the public of the historical archives of the European Union (OJ L43, 15.2.1983, p. 1)

Managing and preserving personal data in archived documents is not why the personal data were collected and processed in the first place. The processing of personal data is necessary for archiving purposes in the public interest. Personal data contained in the documents transferred to the historical archives are an integral and necessary part of those documents. Without these personal data the documents would be incomplete and lose their historical, legal and/or administrative value, i.e. they would lose the value for which they are kept as archives. However, before documents are transferred to the historical archives, a number of precautionary steps are taken as safeguards to ensure that documents containing sensitive personal data are either not transferred to the historical archives or are flagged so that they can be duly protected.

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

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

We process your personal data, because:

- (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 Data Controller is subject.

The Union law which serves as the basis for the above-mentioned processing is [Council Regulation \(EEC, Euratom\) No 354/83](#) concerning the opening to the public of the historical archives of the European Union, as well as Commission Decision C(2020)4482 on records management and archives.

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

In order to carry out this processing operation SG.C1 collects the following categories of personal data:

Personal data that may be contained in the documents transferred to the historical archives or in their metadata. Any such personal data were collected by the originating services before their transfer to the historical archives.

The metadata may include

- Name;
- Function;
- Contact details (e-mail address, telephone number, mobile telephone number, fax number, postal address, company and department, country of residence, IP address, etc.).

Personal data may also be contained in the documents themselves. It should be noted that a large amount of special categories of data falling under Article 10 of Regulation (EU) 2018/1725, including personnel files, health files and files concerning disciplinary proceedings, are not transferred to the historical archives. Documents transferred to the historical archives may nevertheless contain sensitive personal data, including special categories of data. In this case the files concerned are flagged by the transferring service and access to them is restricted. The processing of special categories of personal data for archiving purposes in the public interest is based on Article 10(2)(j) of Regulation (EU) 2018/1725.

We have obtained your personal data from the documents that were transferred to the historical archives of the European Commission by Commission DGs and services.

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

SG.C1 keeps your personal data for the time necessary to fulfil the purpose of collection or further processing, i.e. for archiving purposes in the public interest. Processing personal data for archiving purposes in the public interest starts when the documents concerned are transferred to the historical archives in accordance with the Commission's Common Retention List. The personal data can be retained indefinitely in case the document concerned is selected for permanent preservation. Processing will stop in case the document concerned is selected for elimination following second review, which takes place between 25 and 30 years after its creation.

#### **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 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. 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.

For any processing operations on behalf of the Commission, the European University Institute (EUI), where the Commission deposits its historical archives after they have been opened to the public, is bound to comply with the EU data protection rules by means of the Framework Partnership Agreement (FPA) it signed with the Commission in March 2019. This FPA is a legally binding and enforceable instrument. It requires the EUI to ensure that appropriate technical and organisation measures are in place so that the processing of personal data meets the requirements of Regulation (EU) 2018/1725.

#### **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 of the personal data contained in the documents transferred to the historical archives include the Historical Archives Service of the Commission, which manages the historical archives, and any Commission DG or Service that needs to consult documents in the historical archives for a legitimate business purpose. Furthermore, after they have been opened to the public, the historical archives of the Commission are deposited at the European University Institute in Florence, Italy, where they are made available to the public.

The European University Institute is an international organisation. The deposit of the Commission's historical archives at the EUI therefore involves transfers of personal data to an international organisation governed by Chapter V of Regulation (EU) 2018/1725. It is considered

that the EUI ensures appropriate safeguards in the meaning of Article 48 of Regulation (EU) 2018/1725 based on the following considerations:

- Pursuant to its governing rules and as an internal binding instrument, the European University Institute has adopted President Decision No. 10/2019 of 18 February 2019 Regarding Data Protection at the European University Institute. This Decision stipulates that the Historical Archives of the European Union within the European University Institute acts as a processor to the depositing EU institutions and sets out specific provisions on data protection governance at the European University Institute, inter alia on the availability of enforceable rights and legal remedies for data subjects.
- The European University Institute is bound to comply with the EU data protection rules by means of the Framework Partnership Agreement ('FPA') that it signed with the Commission in March 2019. The FPA (a legally binding and enforceable instrument) includes specific provisions on data protection and requires that the EUI ensures that appropriate technical and organisational measures are in place so that the processing of personal data meets the requirements of Regulation (EU) 2018/1725 and guarantees the protection of data subject rights.

The public may consult the historical archives of the Commission once these archives are thirty years old and on the condition that they do not fall under one of the exceptions to their opening. The protection of the privacy and the integrity of the individual is one such exception specified in the Archives Regulation, which may prohibit the opening of archived documents to the public.

Safeguards are in place to ensure that documents containing sensitive personal data are either not transferred to the historical archives or not opened to the public. Some of the documents that are made available to the public may nevertheless contain some personal data of still living data subjects. If necessary, the Commission may restrict the consultation of such documents. Restrictions can include that access is provided only in reading rooms without the possibility to make copies, that reuse is prohibited, not allowing full text search of digital or digitised documents or any other appropriate measure.

Pursuant to point (13) of Article 3 of Regulation (EU) 2018/1725, public authorities 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 further 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.

## **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. Under certain conditions, 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.

Regulation 1725/2018 provides exceptions to the rights of data subjects where their personal data are processed for archiving in the public interest. These exceptions include:

- exception to the right of information, based on Article 16(5)(b) of the Regulation, if the provision of information to data subjects proves impossible or would involve a disproportionate effort, in particular for processing for archiving purposes in the public interest or historical research purposes;

- exception to the right to erasure, based on Article 19am(3)(d), as this is likely to render impossible or seriously impair the achievement of the objectives of processing for archiving purposes in the public interest to which the Commission has a legal obligation;
- exception to right to obtain restriction of processing by the controller, based on Article 20(2), in as far as the processing regards storage.

Furthermore, Article 25.4 of the Regulation provides for the possibility to establish derogations from the rights of data subjects referred to in Articles 17, 18, 20, 21, 22 and 23 for processing for archiving purposes in the public interest. In accordance with article 25.4, such derogations are established by a Commission decision<sup>2</sup> setting out internal rules on document and archives management at the Commission. The decision establishes derogations for the following rights of data subjects where personal data are processed for archiving purposes in the public interest:

- the right of access by the data subject (Article 17 of Regulation (EU) 2018/1725)
- the right to rectification where personal data are incomplete or inaccurate in relation a data subject (Article 18 of Regulation (EU) 2018/1725)
- the notification obligation regarding rectification or erasure of personal data or restriction of processing (Article 21 of Regulation (EU) 2018/1725)
- the right to object to the processing (Article 23 of Regulation (EU) 2018/1725)

In accordance with Article 25(4) and Recital 33 of Regulation (EU) 2018/1725, any derogation from the right of data subjects needs to be necessary for the fulfilment of the archiving purposes in the public interest. The derogations specified above are necessary to allow archiving in the public interest and preserve the integrity of the documents selected for permanent preservation, which are statutory obligations to which the Commission is subject. Furthermore, granting the right of access by the data subject would involve a disproportionate administrative effort by the Commission and seriously undermine its function of preserving its historical archives.

These derogations are subject to the conditions and safeguards referred to in Article 13 and Recital 33 of Regulation (EU) 2018/1725 and the Commission decision on records management and archives (C(2020)4482), and will be applied following a case by case assessment.

Where you wish to exercise your rights in the context of one or several specific processing operations, please provide their description, namely the 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, 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 contact the Data Controller, SG.C1 at [sg-edomec@ec.europa.eu](mailto:sg-edomec@ec.europa.eu).

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<sup>2</sup> Commission Decision C(2020)4482 on records management and archives

- **The Data Protection Officer of the Commission**

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

- **The European Data Protection Supervisor**

You have the right to have recourse, i.e. you can lodge a complaint to the European Data Protection Supervisor via [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 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 Commission Data Protection Officer's public register with the following Record reference: DPR-EC-00837.