

## **Specific privacy statement**

### **Handling complaints about the application of EU law**

The processing of personal data by the European Commission is subject to the provisions of 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.<sup>1</sup>

This privacy statement explains the reason for the processing of your personal data, the way the European Commission collects, handles and ensures 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.

#### **1. The process of handling complaints**

Any person or body may file with the European Commission a complaint about the application of EU law by a Member State. The European Commission will examine the complaint and decide whether or not further action should be taken. For instance, the European Commission may enter into an informal dialogue with the authorities of the concerned Member States on issues related to potential non-compliance with EU law and/or may decide to launch a formal infringement procedure against the respective Member State.

If your submission does not qualify as a complaint in light of the conditions of a complaint as set out in the Communication ‘EU law: Better results through better application’<sup>2</sup>, your correspondence may be handled in line with the Code of good administrative behaviour for staff of the European Commission in their relations with the public<sup>3</sup>.

#### **2. Identity of the data controller**

The (corporate) data controller of the processing operation is the unit responsible for implementation and enforcement of EU law in the Secretariat-General of the European Commission. Part of the processing of your personal data is carried out by the the unit responsible for dealing with your complaint in the competent European Commission department or service, acting as line-DG/service data controller.

#### **3. Purpose of the processing of your personal data**

The purpose of collecting and handling complaints, including personal data contained therein, is to enable the European Commission to learn about potential infringements of European Union law and thus carry out its task under Article 17 of the Treaty on European Union to ensure that Member States apply the provisions of the Treaty and the measures taken under it.

The European Commission handles complaints about the application of EU law by Member States in a consistent way and in line with its Communication ‘EU law: Better results through better application’<sup>4</sup>,

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<sup>1</sup> OJ L 295, 21.11.2018, p. 39.

<sup>2</sup> Accessible on the EUR-Lex website (<http://eur-lex.europa.eu>) under the reference C/2016/8600 and published in the Official Journal OJ C 18, 19.1.2017, p. 10–20.

<sup>3</sup> For further information, see processing operation ‘Dealing with enquiries and correspondence from citizens based on Chapter IV of the Code of Good Administrative Behaviour’, published in the public register of the Commission’s Data Protection Officer under reference number DPR-EC-01386.

<sup>4</sup> Accessible on the EUR-Lex website (<http://eur-lex.europa.eu>) under the reference C/2016/8600 and published in the Official Journal OJ C 18, 19.1.2017, p. 10–20.

and Action 20 of the Communication ‘Long term action plan for better implementation and enforcement of single market rules’<sup>5</sup>.

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

#### **4. Grounds for lawful processing of your personal data**

Personal data are processed for the performance of a task carried out in the public interest in accordance with Article 5(1)(a) of Regulation 2018/1725. The corresponding Union law for the processing of personal data based on Article 5(1)(a) are Articles 4(3) and 17 of the Treaty on European Union (TEU), and Articles 258, 260 and 291 of the Treaty on the functioning of the European Union (TFEU).

The processing of non-mandatory personal data of the complainant, as well as any possible disclosure of the complainant’s personal data to the Member State concerned by the respective complaint (at the phase of EU Pilot or formal infringement procedure), is based on the consent of the complainant in accordance with Article 5(1)(d) of Regulation 2018/1725. Any transfer of a complaint file for further processing by the SOLVIT resolution mechanism<sup>6</sup> is also based on the consent of the complainant in accordance with Article 5(1)(d) of Regulation 2018/1725.

#### **5. Personal data collected and processed**

To give effect to the complainants’ administrative guarantees and ensure their proper information, the European Commission requires to be provided with the surname, first name, postal address, preferred language and e-mail address (for the online complaint form) of the complainant (natural person or legal entity<sup>7</sup>), as well as their agreement or the lack of their agreement to disclose their identity to the national authorities against which the complaint is lodged. Furthermore, to allow the European Commission to examine the complaint, the following additional information must be supplied: the national authority complained about, the national measure(s) which the complainant considers to be in breach of EU law, previous action taken to solve the problem.

The information collected by the European Commission may also include the complainant’s title, their telephone and fax numbers, email address, website, and (where applicable) the name of their representative and the details thereof (name, title, address, telephone and fax number, e-mail address, website). The full text of the complaint, including any other documents provided by the complainant, may contain other personal data of a very diverse nature.

No special categories of personal data under Article 10 of Regulation (EU) 2018/1725 are required for the purpose of handling a complaint. Please do not include any personal data of third parties or sensitive personal data in your complaint, unless strictly necessary for the handling of your complaint.

#### **6. Storage and security of your personal data**

The personal information collected and all other relevant information are stored on the European Commission servers in the Data Centre in Luxembourg. The server operates under the Commission's decisions and provisions on security established by the Security Directorate for this kind of server and service, namely [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 the personal data being processed, the European 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

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<sup>5</sup> Accessible on the EUR-Lex website (<http://eur-lex.europa.eu>) under the reference COM/2020/94 final.

<sup>6</sup> SOLVIT is an informal problem-solving network of the European Commission and the member states of the European Union and the EEA. For further information, see: [https://ec.europa.eu/solvit/index\\_en.htm](https://ec.europa.eu/solvit/index_en.htm).

<sup>7</sup> Regulation (EU) 2018/1725 concerns the data protection of individuals. It does not apply to information concerning legal entities unless this information relates to an identified or identifiable natural person.

consideration the risk presented by both the processing itself 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?**

Access to the processed personal data is provided to the European 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.

Within the European Commission, access to the personal information collected is granted only through a user ID and password to a defined population of users in the Secretariat-General and other European Commission departments dealing with complaints and infringements. If the European Commission enters into an exchange with the concerned Member State and you have not consented to disclose your identity, the personal data collected will not be available to the Member State authorities concerned. If you have given your consent to the disclosure of your identity, access by the Member States to the personal information collected will be limited to a defined population of users in the national administrations, and only through a user ID and password. The Member States are data controllers for their processing of your personal data and are bound by the provisions of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation)<sup>8</sup>.

The personal data collected are not accessible to the public. Some infringement-related information is published on the Europa webpage, but this information does not contain any personal data. The European Commission sometimes receives a large number of complaints on the same subject against the same Member State (so-called ‘multiple complaints’). In such cases, the European Commission may decide to communicate with the complainants through publications on the Europa webpage. This communication does not contain any personal data.

The personal data we collect will not be given to any third party (apart from the Member State in case you consented to the disclosure of your identity), except:

- to the extent and for the purpose we may be required to do so by law; and
- for the purpose of dispatching letters of the European Commission by registered mail via a postal service provider (see corresponding notification [‘DPR-EC-00884 Traitement du courrier’](#) of the European Commission’s Office for Infrastructure and Logistics in Brussels).

## **8. How long are your personal data kept?**

The European Commission only keeps your personal data for the time necessary to fulfil the purpose of collection or further processing. Personal data/information allowing a complainant to be identified will be erased 10 years after the closure of the file, if no infringement procedure was initiated based on, or supported by, your complaint. When the complaint led to an informal dialogue between the Commission and the concerned Member State (‘EU Pilot process’), which is not followed by an infringement procedure, personal data/information allowing a complainant to be identified will be erased by the European Commission 10 years after the closure of the informal dialogue.

In cases where the Commission launches on the basis of a complaint an infringement procedure, personal data and documents submitted by the complainant will be kept without any time limit, for administrative, procedural and archiving purposes.

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

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<sup>8</sup> OJ L 119, 4.5.2016, p. 1.

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, 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.

If you have consented to the processing of certain parts of your personal data, you can withdraw your consent at any time by notifying the Data Controller. The withdrawal will not affect the lawfulness of the processing carried out before you have withdrawn the consent.

You have no direct access to the personal data stored. Anyone who wishes to exercise his/her rights as a data subject should write an email to [SG-UNITE-E-3@ec.europa.eu](mailto:SG-UNITE-E-3@ec.europa.eu) giving full details of his/her request or, in case of conflict, to the European Commission’s Data Protection Officer. If necessary, you can also address the European Data Protection Supervisor. Their contact information is given 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 section 12 ‘Where to find more detailed information’ below) in your request.

Your request as a data subject will be handled within one month. The period may be extended by two further months where necessary, taking into account the complexity and number of the requests.

## **10. Contact information**

If you have any question or concern concerning the processing of your personal data or a request thereon, please contact the (corporate) data controller, either by email to [SG-UNITE-E-3@ec.europa.eu](mailto:SG-UNITE-E-3@ec.europa.eu) or by letter to the Secretariat-General (unit responsible for implementation and enforcement of EU law), European Commission, B 1049 Brussels.

You can also contact the European Commission’s Data Protection Officer, e-mail address: [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.

## **11. Remedies with regard to the processing of your personal data**

Complaints related to the processing of personal data by the European Commission can also be addressed to the European Data Protection Supervisor at the following address: Rue Wiertz 60 (MO 63), 1047 Brussels, Belgium, e-mail address: [edps@edps.europa.eu](mailto:edps@edps.europa.eu). The European Data Protection Supervisor is responsible for monitoring and ensuring the application of the provisions of Regulation (EU) 2018/1725<sup>9</sup> and any other EU act relating to the protection of the fundamental rights and freedoms of natural persons with regard to the processing of personal data by an EU institution or body.

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

The Commission’s Data Protection Officer publishes the register of all operations processing personal data. You can access the register on the following link : <http://ec.europa.eu/dpo-register>.

This specific processing operation has been included in the Data Protection Officer’s public register with the following Record reference: DPR-EC-00082.

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<sup>9</sup> Regulation (EU) 2018/1725 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, 21.11.2018, p. 39.