



## Early Detection and Exclusion System (EDES)

### Data Protection Notice

The European Education and Culture Executive Agency ("EACEA") is committed to preserving your privacy. All personal data are dealt with in accordance with Regulation (EU) No 2018/1725 on the protection of personal data by the Union institutions, bodies, offices and agencies<sup>1</sup> ("the data protection regulation").

The following Data Protection Notice outlines the policies by which the EACEA collects, manages and uses the personal data of the concerned individuals within the

#### **1. Who is responsible for processing your personal data (data controller)?**

The controller is the European Education and Culture Executive Agency, BE-1049 Brussels  
The person designated as being in charge of the processing operation is the Head of Unit R2 Budget and internal control  
EACEA-R2-ANTI-FRAUDE <EACEA-R2-ANTI-FRAUDE@ec.europa.eu>

#### **2. Which personal data are processed?**

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

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<sup>1</sup> 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 Text with EEA relevance, OJ L 295, 21.11.2018, p. 39.

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.

### **3. For which purpose do we process your data?**

The purpose of the processing activity 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 Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union (hereinafter "the Financial Regulation")<sup>1</sup>, the purpose of entering data subjects in the EDES is:

- The early detection of persons or entities referred to in Article 135(2) of the Financial Regulation, which pose a risk to the financial interests of the Union;
- The exclusion of persons or entities referred to in Article 135(2) of the Financial Regulation, which are in one of the exclusion situations referred to in Article 136(1) of the Financial Regulation;
- The imposition of a financial penalty on a recipient pursuant to Article 138 of the Financial Regulation;
- 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 (Articles 140(1) and 140(2) of the Financial Regulation.

### **4. Where the data is collected from?**

We have obtained personal data from the responsible authorising officer and they are contained in sources as the ones provided for under Article 136(2), 4th subparagraph as well as Article 142(2) of the Financial Regulation. Other data can also be collected from the data subjects directly or from any other individual.

### **5. 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 and entities referred to points (c), (d), (e) of article 142 (2) of the Financial Regulation) 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.

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:

- (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 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 (transfer is necessary for important reasons of public interest).

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.

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

The information on early detection will have a maximum duration of 1 year (pursuant to article 142, paragraph 4, 3rd subparagraph of the Financial Regulation) from the moment that the relevant case is validated by the Commission. The information is automatically removed at the end of the period. If, during the retention period of information on early detection, the authorising officer requests the panel referred to in Article 143 to issue a recommendation in an exclusion case, the retention period may be extended until such time, when the authorising officer has taken a decision. In other cases, as soon as it is no longer justified, the information on early detection is closed by the authorising officer.

The duration of information on exclusion shall not exceed:

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

A person or entity shall be excluded as long as he is in one of the exclusion situations referred to in points (a) and (b) of paragraph 1 of article 136 of the FR (see article 139 (1) FR) (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 FR on the proposed duration of the exclusion shall be made in compliance with the principle of proportionality (article 136 (3) of the FR). A published information on exclusion will be removed as soon as the exclusion has come to an end (see article 140, 4th subparagraph of FR). 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, 4th subparagraph of FR). 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 Financial Regulation.

For every demand made by the data subject to block/erase data, the time to process and assess the legitimacy of it should be evaluated on a case-by-case basis.

1. As long as the legitimacy of a request is not established, the EACEA will answer the request of the applicant in order to complete the request and make it legitimate. The request will be legitimate when the following elements are established:

- The request for blocking/erasure is signed;
- It contains a serious motivation;
- The identity of the signatory is established (copy of an ID card). The link between the signatory and the concerned economic operator is established (given by the form of recording of the exclusion or, otherwise: copy of extract of register, status, gazette).

2. Within 15 working days of the receipt by the Authorising Officer of a legitimate request of blocking/erasure of the data, the information on the economic operator will be removed from EDES and the economic operator at stake will disappear one day after the removal (with the automatic daily update of the EDES). According to the data controller, the economic operator concerned will be informed of the removal and the subsequent decision by standard letter. Therefore, there will be no prejudice to the requestor should the examination take more than 15 working days.

3. If the examination of the request shows that the request of blocking/erasure is not justified, the information will be reinserted and the data subject concerned will be notified in writing within 10 working days about the entry.

The procedure to block/erase data will not have effects on the general processing operation taking place on the EDES.

Finally, as explained above (point 13), information is entered upon registration and removed automatically at the end of the retention period of the information if, in the meanwhile, they have not been manually removed on the basis of a duly justified request by the data subject.

## **7. What are your rights concerning your personal data and how can you exercise them?**

Under the provisions of the data protection regulation, you have the right to:

- Request to access the personal data EACEA holds about you;
- Request a rectification of your personal data where necessary;
- Request the erasure of your personal data;
- Request the restriction of the processing of your personal data;
- Request to receive or to have your data transferred to another organization in commonly used machine readable standard format (data portability).

As this processing of your personal data is based on point of Article 5(1)(a) of the data protection regulation, please note that you have the right to object to processing of your personal data on grounds relating to your particular situation under the provisions of Article 23 of the data protection regulation.

Article 25 of Regulation (EU) 2018/1725 provides that, in matters relating to the operation of EU institutions and bodies, the latter can restrict certain rights of individuals in exceptional circumstances and with the safeguards laid down in that Regulation. Such restrictions are provided for in internal rules adopted by EACEA and published in the Official Journal of the European Union (<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32021Q0317%2801%29>).

Any such restriction will be limited in time, proportionate and respect the essence of the above-mentioned rights. It will be lifted as soon as the circumstances justifying the restriction are no longer applicable. You will receive a more specific data protection notice when this period has passed.

As a general rule you will be informed on the principal reasons for a restriction unless this information would cancel the effect of the restriction as such.

You have the right to make a complaint to the EDPS concerning the scope of the restriction.

## **8. Your right to have recourse in case of conflict on any personal data issue**

In case of conflict on any personal data protection issue you can address yourself to the Controller at the above mentioned address and functional mailbox.

You can also contact the Data Protection Officer of EACEA at the following email address: [eacea-data-protection@ec.europa.eu](mailto:eacea-data-protection@ec.europa.eu).

You may lodge a complaint with the European Data Protection Supervisor at any time: <http://www.edps.europa.eu>.

## **9. On which legal basis are we processing your personal data?**

Processing of personal data is based on the following article under art. 5(1) of the data protection regulation:

- (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 (to be laid down in Union Law);
- (b) processing is necessary for compliance with a legal obligation to which the controller is subject (to be laid down in Union Law);

The applicable EU law is:

- Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union: the information on early detection and/or exclusion and/or financial penalty is entered by the EACEA Responsible Authorising Officer in the EDES database in accordance with the frame and procedure described under articles 135 to 145 of the Financial Regulation
- The Commission Implementing Decision 2021/173 establishing the European Education and Culture Executive Agency;
- The Commission Decision C(2021)951 and its annexes delegating powers to EACEA for the management of programmes in the MFF 2021-2027.

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) 2018/1725.

International transfers can take place based on Article 48 and 50(1)(d) of Regulation (EU) 1725/2018.