



RECORD OF PERSONAL DATA PROCESSING

Art. 31 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 (henceforth the "Regulation")

Record n°

11-2022

In accordance with Article 31 of Regulation 2018/1725, individuals whose personal data are processed by the Agency in any context whatsoever are to be protected with regard to the processing of personal data and the Agency has to keep records of their processing operations.

This record covers two aspects:

- 1. Mandatory records under Art 31 of the 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*
- Migration from notification to record.*

Early Detection and Exclusion System (EDES)

1	Last update of this record (where applicable) Not applicable
2	Short description of the processing 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 144 of the Financial Regulation. The information introduced by EACEA is only at a draft level, which means not yet accessible. The Agency is using the corporate tool EDES to ensure early-detection and exclusion of situation to protect the financial interests of the EU through the programmes/actions that the Agency manages. The information is inserted in EDES. It is then analysed by the EDES team (DG BUDG, LS) which validates or rejects the registration proposed by EACEA RAO. It's only when EDES team validates it that the information becomes accessible in EDES.

Part 1 - Article 31 Record

3	<p>Name of the Controller Unit(s) and/or function of person acting on behalf of the Controller</p> <p>Controller: European Education, and Culture Executive Agency Unit: The Head of Unit R2 Budget and internal control, Marco Carnaccini</p> <p>Administrative address: J-59 07/061 Postal address: Education Audiovisual and Culture Executive Agency, Avenue du Bourget 1, BOUR, BE-1140 Brussels functional e-mail address: EACEA-R2-ANTI-FRAUDE: EACEA-R2-ANTI-FRAUDE@ec.europa.eu</p>
4	<p>Contact details of the Data Protection Officer (DPO)</p> <p>EACEA-data-protection@ec.europa.eu</p>
5	<p>Name and contact details of joint controller (where applicable)</p> <p>N.A.</p>
6	<p>Name and contact details of processor (where applicable)</p> <p>N.A.</p>
7	<p>Purpose of the processing</p> <p>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")¹, the purpose of entering data subjects in the EDES is:</p> <ul style="list-style-type: none"> • 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.
8	<p>Description of the categories of data subjects</p> <p>Whose personal data are being processed? In case data categories differ between different categories of persons, please explain as well (e.g. suspects vs. witnesses in administrative inquiries)</p> <p><input checked="" type="checkbox"/> Agency staff (Contractual, interim, stagiaires and temporary staff in active position)</p> <p><input type="checkbox"/> Visitors to the Agency</p>

	<input checked="" type="checkbox"/> Contractors providing goods or services <input checked="" type="checkbox"/> Applicants <input checked="" type="checkbox"/> Relatives of the data subject <input checked="" type="checkbox"/> Complainants, correspondents and enquirers <input checked="" type="checkbox"/> Witnesses <input checked="" type="checkbox"/> (Co) Beneficiaries, partners, affiliated entities <input checked="" type="checkbox"/> External experts <input checked="" type="checkbox"/> Contractors <input type="checkbox"/> Other, please specify:
9	Description of personal data categories
	<p>Indicate <u>all</u> 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>a) Categories of personal data:</p> <input checked="" type="checkbox"/> in the form of personal identification numbers <input type="checkbox"/> concerning the physical characteristics of persons as well as the image, voice or fingerprints <input type="checkbox"/> concerning the data subject's private sphere <input checked="" type="checkbox"/> concerning pay, allowances and bank accounts <input checked="" type="checkbox"/> concerning recruitment and contracts <input type="checkbox"/> concerning the data subject's family <input checked="" type="checkbox"/> concerning the data subject's career <input checked="" type="checkbox"/> concerning leave and absences <input checked="" type="checkbox"/> concerning missions and journeys <input checked="" type="checkbox"/> concerning social security and pensions <input checked="" type="checkbox"/> concerning expenses and medical benefits <input checked="" type="checkbox"/> concerning telephone numbers and communications <input checked="" type="checkbox"/> concerning names and addresses (including email addresses) <input checked="" type="checkbox"/> Other: please specify: all information related to the management of procurement or grants/project's activities. _____ <p>b) Categories of personal data processing likely to present <u>specific risks</u>:</p> <input checked="" type="checkbox"/> data relating to suspected offences, offences, criminal convictions or security measures <input checked="" type="checkbox"/> data being used to evaluate personal aspects of the data subject (ability, efficiency, conduct) <p>c) Categories of personal data whose processing is <u>prohibited</u>, with exceptions (art. 10): N.A.</p> <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

d) Specify any additional data or explanatory information on the data being processed, if any: -

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.

	<p>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.</p> <ul style="list-style-type: none"> • 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. <p>Pursuant to article 140(1) of the FR, the following data may be published subject to the decision of the authorising officer responsible:</p> <ul style="list-style-type: none"> • 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. <p>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.</p> <p>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:</p> <ul style="list-style-type: none"> • 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. <p>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.</p>
10	<p>Retention time (time limit for keeping the personal data)</p> <p>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.</p> <p>The duration of information on exclusion shall not exceed :</p>

- 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.

Is any further processing for historical, statistical or scientific purposes envisaged?

yes no

If yes, indicate the further retention time:

If the answer is yes, please go to Part 2, Storage and Security for technical safeguards.

11	<p>Recipients of the data</p>
	<p>Access to your personal data is provided to the 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.</p> <p>Recipients of the data of the EDES are the following:</p> <p><i>Within the EU organization</i></p> <p>Recipients of the data of the EDES are the following (Article 142(4) and (5) FR):</p> <ul style="list-style-type: none"> - Authorised persons within the Commission and of 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 representatives of the Commission and a representative of the requester authorising officer; - Authorised persons from all entities participating in the implementation of the budget in accordance with articles 62 of the Financial Regulation (see article 142 (5) of the Financial Regulation) only for exclusion decisions: <ol style="list-style-type: none"> 1. Authorised persons from the Member States, managing funds under shared management; 2. Authorised persons from entities managing funds under indirect management: <ul style="list-style-type: none"> - the European Investment Bank (‘the EIB’) or the European Investment Fund (‘the EIF’) or both of them acting as a group (‘the EIB group’); - Union bodies referred to in Articles 70 and 71 of the Financial Regulation; - public law bodies; - bodies governed by private law with a public service mission to the extent that they provide adequate financial guarantees; - 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; - 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. Specific clauses will be inserted in the delegation agreements. <p><i>Outside the EU organisation</i></p> <p>Authorised persons in entities implementing the budget under indirect management (Articles 142(5) and Article 62(1)(c) of the Financial Regulation):</p> <ol style="list-style-type: none"> (i) third countries or the bodies they have designated; (ii) international organisations and their agencies; (iii) public law bodies; (iv) bodies governed by private law with a public service mission to the extent that they provide adequate financial guarantees; (v) 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 <p>Comments</p> <ul style="list-style-type: none"> - Public for cases which are made public on the website of the EDES related to exclusion and where applicable, the financial penalty (article 140 of the Financial Regulation). In this respect, it is noted that according to article 140, 5th subparagraph, where personal data is concerned the authorising officer shall inform the economic operator of its rights under the applicable data protection rules and of the procedures available to exercise those rights. In addition,

	<p>pursuant to article 140 (2) (c) where a natural person is concerned, personal data shall not be published, unless the publication of personal data 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 shall duly take into consideration the right to privacy and other rights provided for in Regulation (EC) No 2018/1725;</p> <p>- European Court of Auditors, European Anti-Fraud office (OLAF) for all data that are in the EDES database for audit /investigation purposes</p>
12	<p>Are there any transfers of personal data to third countries or international organisations? If so, to which ones and with which safeguards?</p> <p><u>Transfer outside of the EU or EEA:</u> authorised persons in entities implementing the budget under indirect management (Articles 142(5) and Article 62(1)(c) of the Financial Regulation) will have access to the information on exclusion decisions also for the part of the database that is not open to the public:</p> <ul style="list-style-type: none"> (i) third countries or the bodies they have designated; (ii) international organisations and their agencies; (iii) public law bodies; (iv) bodies governed by private law with a public service mission to the extent that they provide adequate financial guarantees; (v) 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. <p>All international organisations that implement EU funds are bound by Agreements with the EU (contribution agreements, delegation agreements, financial framework partnership agreements, etc.)</p> <p>The legal base for the data transfer are:</p> <ul style="list-style-type: none"> - Transfer subject to appropriate safeguards (Article 48.2): a legally binding and enforceable instrument between public authorities or bodies - Transfer based on an International agreement <p>Derogation for specific situations in accordance with Article 50.1 (d) applies: in the absence of an adequacy decision, or of appropriate safeguards, transfer of personal data to a third country or an international organisation is based on Article 50.1.d: transfer is necessary for important reasons of public interest. Indeed, entities implementing the budget under indirect management (Articles 142(5) and Article 62(1)(c) of the Financial Regulation) will have access to the information on exclusion decisions, to enable them to verify whether there is an exclusion in the system with a view to taking this information into account, as appropriate and on their own responsibility, when awarding contracts in budget implementation. This qualifies as an important reason of public interest, since the ultimate purpose of EDES it the protection of the Union's financial interests.</p>
13	<p>General description of the technical and organisational security measures</p> <p>The European Commission's IT systems used by the Agency abide by the Commission's security guidelines. The Agency must comply with Commission Decision (EU, Euratom) 2017/46 of 10 January 2017 on the security of communication and information systems in the European Commission.</p> <p>1. Organisational measures:</p> <p>A Corporate Local Informatics Security Officer (C-LISO) is in place. Its role includes</p>

	<p>supervising the Agency compliance with the relevant regulations, and the application of security measures recommend by DIGIT.</p> <p>Organisational measures include appropriate access rights and access control. As a rule within the Agency, access to information systems, the file system or offices are subject to a series of authorisations where the person granting the access is different from the person requesting or authorising the access - except in limited cases of delegation. The responsible person in the unit in charge of this action (processing operation of the current record) collects and places the documents on the secured drives of the Commission and all Agency staff are bound by a confidentiality obligation. The need to know principle applies in all cases.</p> <p>2. Technical measures:</p> <p>State of the art technical cybersecurity measures are implemented in the corporate systems, according to the security needs. Those measures are in constant evolution.</p>
14	<p>Information to data subjects / Privacy Statement</p> <p>The data subjects are informed about their rights and how to exercise them in the form of a privacy statement attached to this record</p> <p>Data protection notice will be published on the website fo the Agency https://www.eacea.ec.europa.eu/about-eacea/data-protection_fr#d%C3%A9clarations-de-confidentialit%C3%A9 and on EACEA's internal intranet page: https://myintracomm.ec.europa.eu/dg/eacea/mydailywork/anti-fraud/Pages/cooperation.aspx</p> <p>Information given to the data subjects at the beginning of the contradictory procedure about the facts in question and their preliminary classification in law before a possible exclusion decision (article 143(5) of FR) - Information given with the notification of the registration of the information on early detection and/or exclusion and /or financial.</p>