



EUROPEAN EDUCATION AND CULTURE EXECUTIVE AGENCY (EACEA)

EACEA.R2 - Budget and Control

Processing of personal data in the context of ex post audits of grants.

Privacy Statement

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 agencies¹ ("the data protection regulation").

The following Privacy statement outlines the policies by which the EACEA collects, manages and uses the personal data of the concerned individuals within the processing of personal data in the context of ex post audits of grants.

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

The controller is the European Education Audiovisual 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 Control

Email: eacea-R2-audit@ec.europa.eu

2. Which personal data are processed?

a) Categories of personal data:

- ☒ concerning pay, allowances and bank accounts
- ☒ concerning recruitment and contracts
- ☒ concerning the data subject's family
- ☒ concerning the data subject's career
- ☒ concerning leave and absences
- ☒ concerning missions and journeys
- ☒ concerning social security and pensions
- ☒ concerning expenses and medical benefits
- ☒ concerning telephone numbers and communications
- ☒ concerning names and addresses (including email addresses)
- ☒ Other, please specify: names, function & grades, contact details and addresses (phone number, email addresses, personal and professional address)_____

¹ 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.

b) Categories of personal data processing likely to present specific risks:

☒ data relating to suspected offences, offences, criminal convictions or security measures: processing of such data is purely incidental, but might take place in case of exclusion as provided for by Financial Regulation

c) Categories of personal data whose processing is prohibited, with exceptions (art. 10):

Auditors might have access to such data but they are disregarded as they are not the scope of their audit.

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

Performance, Audit and Internal Control sector team of unit R2 keeps two categories of data, i.e. a) project data (e.g. project number and type, global budget, etc.) and b) data of beneficiary (such as address of the organisation, name, contact details of the persons responsible for the projects, personal data linked to audit findings)

The categories of data contained in documents may vary depending on the nature of the project and the matter being audited.

3. For which purpose do we process your data?

The ex post audits of grant agreements and decisions aim at verifying beneficiaries' or subcontractors' or third parties' compliance with all contractual provisions (including financial provisions), in view of checking that the provisions of the grant agreement or decision were properly implemented and in view of assessing the legality and regularity of the transactions underlying the implementation of the Union budget.

Ex-post audits are mainly outsourced to external audit firms but could be carried out directly by EACEA staff ("own-resource-audits").

4. Who has access to your personal data and to whom is it disclosed?

Access to your personal data may be given on a need-to know basis to the following recipients:

- Designated staff of EACEA such as:

- Financial/project/legal officers in EACEA;
- Authorised financial officers of unit R2 of EACEA;
- Authorised Officers by (sub-) Delegation in EACEA (Director, Heads of Department, Heads of Unit , Heads of sector);

- External auditors (processors) acting on behalf of EACEA, and their subcontractors if any;

- European Commission, such as DGs and Commission services in charge of ex-post controls, IAS auditors

In case of control or dispute the bodies in charge of a monitoring and/or inspection task in accordance with EU law (OLAF, European Court of Auditors, Ombudsman, EDPS, Internal Audit Service of the Commission, etc.). Data may be transferred to EU and national public authorities in the framework of a particular inquiry in accordance with Union or Member State law .e.g. OLAF, EPPO, Internal Audit Service of the Commission, European Court of Auditors, Ombudsman, EDPS, IDOC, national authority, the European Court of Justice or a national judge etc.) as well as to the lawyers and the agents of the parties in case of a legal procedure.

Personal data can be transferred to the UK based on the Commission Implementing Decision C(2021) 4800, pursuant to Regulation (EU) 2016/679 of the European Parliament and of the Council on the

adequate protection of personal data by the United Kingdom, to the extent that the adequacy decision is respected by the recipient and remains valid.

Furthermore, EACEA can authorise transfers into third countries other than UK which do not have adequacy decisions in case the audited entity is based into a third country and the contractor needs to recruit a local auditor to partly or fully carry out the audit. Such transfers will be based on a derogation of Article 50(b) (transfer necessary to perform a contract between data subjects and the controller), and 50(1)(d) (transfer is necessary for important reason of public interest recognised by EU law , which in this case is the Financial Regulation).

5. How long do we keep your personal data?

Data are retained for a maximum period of 10 years starting from the closure of the annual audit plan file where audit information are stored. This is in compliance with the Common Retention List (CRL)– Commission Decision SEC/2019/900 of 0925/074/2019, Annex 1, point 7.1.34.9.

Data are retained for 10 years after the annual audit plan file is closed on condition that no contentious issues occurred; in this case, data will be kept until the end of the last possible legal procedure. After that, they may be transferred to the Historical Archives of the EC (as indicated in the Commission Common retention list).

6. 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.

7. 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.

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

8. On which legal basis are we processing your personal data?

The processing of personal data is based on the following provisions of art. 5(1) of Regulation 2018/1725:

- (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);
- (a2) including processing of personal data necessary for the management and functioning of the Union Institutions or bodies
- (b) processing is necessary for compliance with a legal obligation to which the controller is subject (to be laid down in Union Law)- (Art. 74(6) of the Financial Regulation 2018/1046);;
- (c) processing is necessary for the performance of a contract to which the data subject is party or in order to take steps at the request of the data subject prior to entering into a contract;

International transfers are based on Article 47 (Transfers on the basis of an adequacy decision), Article 50(1)(b) (transfer necessary to perform a contract between data subjects and the controller), and/or 50(1)(d) (transfer is necessary for important reason of public interest recognised by EU law) .

Legal basis under Article 5(1)(a) of the Regulation:

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, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012

Commission Implementing Decision (EU) 2021/173 of 12 February 2021 establishing the European Climate, Infrastructure and Environment Executive Agency, the European Health and Digital Executive Agency, the European Research Executive Agency, the European Innovation Council and SMEs Executive Agency, the European Research Council Executive Agency, and the European Education and Culture Executive Agency and repealing Implementing Decisions 2013/801/EU, 2013/771/EU, 2013/778/EU, 2013/779/EU, 2013/776/EU and 2013/770/EU.

Commission Decision C(2021)951 and its annexes delegating powers to EACEA for the management of programmes in the MFF 2021-2027.

Regulation (EU) No 1288/2013 of the European Parliament and of the Council of 11 December 2013 establishing 'Erasmus+': the Union programme for education, training, youth and sport and repealing Decisions No 1719/2006/EC, No 1720/2006/EC and No 1298/2008/EC;

Regulation (EU) 2021/817 of the European Parliament and of the Council of 20 May 2021 establishing Erasmus+: the Union Programme for education and training, youth and sport and repealing Regulation (EU) No 1288/2013, OJ L 189, 28.5.2021, p. 1–33

Regulation (EU) 2018/1475 of the European Parliament and of the Council of 2 October 2018 laying down the legal framework of the European Solidarity Corps and amending Regulation (EU) No 1288/2013, Regulation (EU) No 1293/2013 and Decision No 1313/2013/EU

Regulation (EU) 2021/888 of the European Parliament and of the Council of 20 May 2021 establishing the European Solidarity Corps Programme and repealing Regulations (EU) 2018/1475 and (EU) No 375/2014 (Text with EEA relevance)

Regulation (EU) No 1295/2013 of the European Parliament and of the Council of 11 December 2013 establishing the Creative Europe Programme (2014 to 2020) and repealing Decisions No 1718/2006/EC, No 1855/2006/EC and No 1041/2009/EC;

Regulation (EU) 2021/818 of the European Parliament and of the Council of 20 May 2021 establishing the Creative Europe Programme for the period 2021-2027 (OJ L 189).

Council Regulation (EU) No 390/2014 of 14 April 2014 establishing the ‘Europe for Citizens’ programme for the period 2014-2020 (OJ L 115, 17.4.2014);

Regulation (EU) 2021/692 of the European Parliament and of the Council of 28 April 2021 establishing the Citizens, Equality, Rights and Values Programme and repealing Regulation (EU) No 1381/2013 of the European Parliament and of the Council and Council Regulation (EU) No 390/2014

Please note that the provision of personal data is a statutory or contractual requirement, based on the provisions of the Financial Regulation mentioned above and the contractual provisions embedded in the applicable grant agreement / decisions subjects the compliance of which by the beneficiary is subject to the audit. Failure to provide such data could be a breach of contract, with all the financial consequences provided by the applicable grant agreement/decision (art 15(2)(e)).