



European Research Council
Executive Agency

Established by the European Commission

RECORD OF PERSONAL DATA PROCESSING

Art. 31 of the *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 "Data protection regulation")

Record n°

DPO 14 – 2020

In accordance with Article 31 of the data protection regulation, individuals whose personal data are processed by the European Research Council Executive Agency (ERCEA or the Agency) in any context whatsoever are to be protected with regard to the processing of personal data and the ERCEA has to keep records of their processing operations.

This record covers two aspects:

- 1. Mandatory records under Art 31 of the data protection 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*

Access to Documents

Access to Documents		
1	Last update of this record if applicable	DPO 22.1-2012
2	Short description of the processing	Processing of personal data in relation to requests for access to documents of the Agency according to Regulation 1049/2001 including data of persons submitting the request and personal data revealed when replying to the request.
(This part may be public) Part 1 - Article 31 Record		
3	Function and contact details of controller	Head of Unit D3 Legal Affairs and Internal Control erc-access-to-documents@ec.europa.eu
4	Contact details of the Data Protection Officer (DPO)	ERC-DATA-PROTECTION@ec.europa.eu

5	Name and contact details of joint controller (where applicable)	N/A
6	Name and contact details of processor (where applicable)	While dealing with the specific requests on access to documents, ERCEA uses different support tools (such as Outlook and ARES) for which DG DIGIT provides support services as processor.
7	Purpose of the processing	The purpose of the processing is the correct management of requests for access to documents and compliance with the workflow mentioned in the corresponding Access to document procedure (e.g. meet the deadlines for the replies to the applicant) as well as for the elaboration of statistics as laid down in Regulation (EC) N° 1049/2001. The personal data may also be processed for the purpose of following up on an inquiry by the European Ombudsman or in case of court proceedings with regard to an application for access to documents previously submitted with the ERCEA.
8	Description of the categories of data subjects	<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"/> EA staff (Contractual and temporary staff in active position)</p> <p><input type="checkbox"/> Visitors to the EA</p> <p><input checked="" type="checkbox"/> Contractors providing goods or services</p> <p><input checked="" type="checkbox"/> Applicants</p> <p><input type="checkbox"/> Relatives of the data subject</p> <p><input type="checkbox"/> Complainants, correspondents and enquirers</p> <p><input type="checkbox"/> Witnesses</p> <p><input checked="" type="checkbox"/> Beneficiaries</p> <p><input checked="" type="checkbox"/> External experts</p> <p><input checked="" type="checkbox"/> Other, please specify: personal data of the applicant (e.g. name and email address), who can be any citizen of the Union, any natural or legal person residing or having a registered office in a Member State as well as citizens of third countries not residing in a Member State and legal persons not having their registered office in one of the Member States. In addition, the request may concern any document held by the ERCEA, which can concern the personal data of other individuals than listed above.</p>

<p>9</p>	<p>Description of personal data categories</p> <p>Indicate all 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><i>Categories of personal data:</i></p> <ul style="list-style-type: none"> <input 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 type="checkbox"/> concerning leave and absences <input checked="" type="checkbox"/> concerning missions and journeys: mission reports with names of staff members, dates, destination etc. <input type="checkbox"/> concerning social security and pensions <input type="checkbox"/> concerning expenses and medical benefits <input checked="" type="checkbox"/> concerning telephone numbers and communications: telephone number of the applicant (occasionally provided by the applicant though not obligatory) <input checked="" type="checkbox"/> concerning names and addresses (including email addresses): name, email and postal address of the applicant <input type="checkbox"/> Other: please specify: Since any document in possession of the ERCEA (relating to the policies, activities and decisions falling within its responsibility) can be requested, the categories of personal data can be wider than described above. ERCEA processes any personal data that may appear in the requested documents. Personal data that appear in the requested documents may be disclosed to the applicant with an <i>erga omnes</i> effect following an assessment under Regulation 1049/2001 and Article 9(1)(b) of the Regulation (EU) 2018/1725. Further examples: expert opinion in the form of evaluation report, which is to be considered as personal data in its entirety and personal data appearing in project proposal (CV of PI and names of team members, their roles and time commitment, cost information such as salaries etc.) <p><i>Categories of personal data processing likely to present <u>specific risks</u>:</i></p> <ul style="list-style-type: none"> <input type="checkbox"/> data relating to suspected offences, offences, criminal convictions or security measures <input type="checkbox"/> data being used to evaluate personal aspects of the data subject (ability, efficiency, conduct) <p><i>Categories of personal data whose processing is</i></p>
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		<p><i>prohibited, with exceptions (art. 10 new Regulation):</i></p> <p><input type="checkbox"/> revealing racial or ethnic origin <input type="checkbox"/></p> <p>revealing political opinions <input type="checkbox"/></p> <p>revealing religious or philosophical beliefs <input type="checkbox"/></p> <p>revealing trade-union membership <input type="checkbox"/></p> <p>concerning health <input type="checkbox"/></p> <p>genetic data, biometric data for the purpose of uniquely identifying a natural person: e.g. signature</p> <p><input type="checkbox"/> concerning sex life or sexual orientation</p> <p><i>Specify any additional data or explanatory information on the data being processed, if any:</i></p>
10	Retention time (time limit for keeping the personal data)	<p>The 'administrative retention period' of five years is based on the retention policy of Commission documents and files (and the personal data contained in them), governed by the common Commission-level retention list for European Commission files SEC(2019)900/2, to which ERCEA adheres. In case of an initial application for access to ERCEA documents the data are stored for a period of 5 years after sending of all or parts of the documents requested or refusal of access. A file is considered closed after the initial decision of the ERCEA has become final (i.e. there was no confirmatory application).</p> <p>In case of a confirmatory application when the initial access to an ERCEA document was refused in total or partial or the ERCEA failed to reply within the prescribed time-limit according to Article 7 paragraph 1 and 3 of Regulation 1049/2001 and Article 3 paragraph 3 and 4 of the "Implementing Rules" of the Steering Committee and the applicant made an appeal for administrative review to the ERCEA Director the data are stored for the period of 5 years after the Director's final decision.</p> <p>This period of 5 years is suspended during the necessary time to finalise Ombudsman complaints or cases at the European Court of Justice, which may arise due to negative confirmatory replies or due to failure by the ERCEA to reply within the prescribed time limit in Article 8 paragraph 1 and paragraph 2 of Regulation 1049/2001 and Article 5 paragraph 1 of the "Implementing Rules" of the ERCEA Steering Committee to requests for access to documents.</p> <p>Is any further processing for historical, statistical or scientific purposes envisaged? <input checked="" type="checkbox"/> yes <input type="checkbox"/> no</p> <hr/> <p>Documents related to the confirmatory application are transferred to the historical archives for permanent preservation after the retention period elapsed, for historical purposes.</p>
11	Recipients of the data	<p>Within the agency, unit D3 Legal Affairs and Internal Control staff and other actors in the visa chain:</p> <p>Positive replies are signed by D3 Head of Unit. Negative replies (total or partial refusal of access as well as 'devoid of purposes' cases) are signed by the Head of Department D Resources and Support. Replies to confirmatory</p>

		<p>applications are signed by the Director of the Agency (with his assistant in the visa chain) both on hard copy, which is sent to the applicant by registered post and electronically in ARES.</p> <p>Personal data may also be shared with the unit staff that holds the documents requested, on a need-to-know basis.</p> <p>ERCEA D1 unit' s staff in charge of courier service when sending all replies by registered mail with acknowledgement of receipt, including the courier service provider have also access to the personal data within the extent necessary for the dispatch of the Agency's reply.</p> <p>In case the request for access to documents of a person relates to a document:</p> <p>a) which is not in the possession of the Agency but in the possession of an EU institution or body, the Agency transmits the request to that institution or body to deal with it in their own responsibility;</p> <p>b) which is in the possession of the Agency but originates from an EU institution or body (was drawn up or forwarded by it) and which has not yet been made public by this institution/body, the Agency will immediately inform the service of the institution/body concerned of the request and of the Agency's position as regards the release of the document to allow the institution to give its opinion before the Agency takes a decision whether to agree to provide the document or not. The legal basis for this is Article 4 (4) and Article 3 (b) of Regulation 1049/2001 and Article 2 (c) and Article 6 of the Decision of the Steering Committee of the ERCEA of 18.02.2009 on the implementation of the Regulation 1049/2001 as well as an Interinstitutional Agreement (Memorandum of Understanding) between the Commission, Council and European Parliament signed on 09.07.2002 which is applied by the Agency in analogy.</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>Pursuant Article 2(2) of Regulation (EC) N 1049/2001 and Article 1(2) of the Decision of the Steering Committee of the ERCEA of 18.02.2009 on the implementation of the Regulation 1049/2001, the Agency may, subject to the same principles, conditions and limits, grant access to documents to any natural or legal person not residing or not having its registered office in a Member State.</p> <p>In case a transfer to a third country will be necessary, the safeguards set in the Data Protection Regulation will be implemented accordingly.</p>
13	<p><u>General</u> description of the technical and organisational security measures</p>	<p>Access to the computer system and data stored electronically only possible by username and password (ERCEA intranet).</p> <p>Restricted access - only staff members from the Agency working with Access to Document files have access to the corresponding folders stored on the ERCEA Shared Drive.</p> <p>Access to the servers is restricted.</p> <p>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.</p>

14	Information to data subjects/Data Protection Notice	<p>Where possible, personal data is deleted from documents which become public as a result of a request for access to documents.</p> <p>An acknowledgement of receipt (AoR) of a request for access to an ERCEA document is obligatory to be sent to the requester according to Article 7 (1) of Regulation 1049/2001 and contains information for the requesting person, e.g. the AoR repeats the date of the request and informs about the date and (ARES-) number of its registration. The AoR also includes a link to the ERC web site where the data subject can consult the Data Protection Notice (DPN).</p> <p>Data subjects, whose data is requested, are informed about the request and their consent is requested if the ERCEA is not bound by law to provide said data.</p>
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