



Data Protection Notice

Processing of personal data to prevent, detect and mitigate fraud and irregularities and follow-up internal investigations conducted by OLAF

In accordance with Regulation (EU) 2018/1725 of 23 October 2018 on data protection (hereinafter the Regulation), the European Climate, Infrastructure and Environment Executive Agency (hereafter CINEA) collects your personal data only to the extent necessary to fulfil the precise purpose related to its tasks.

1. The **controller** is CINEA:

- a. CINEA A2 Legal Affairs, External audits and Administrative Finance
Chaussée de Wavre 910
W910 02/006
- b. Person responsible for the processing: Head of Unit
- c. Email: CINEA-ANTI-FRAUD@ec.europa.eu

2. The **purpose of the processing** is to handle personal data in order to prevent, detect and/or mitigate fraud and/or other irregularities such as e.g.: conflict of interest, etc. incurred internally in the organisation or externally at the level of the candidates, applicants, experts, contractors or beneficiaries of EU funds managed by the Agency to ensure sound financial management.

In particular, it is necessary to analyse this type of information and decide on whether it should be transferred to the European Anti-Fraud Office (OLAF) or not. Personal data is also processed to follow-up any internal investigations launched by OLAF and to implement relating recommendations.

3. The **data subjects** concerned by this notice are:

- Internal to the organisation:
 - o Staff members of the Agency if the suspicion of potential fraud and/or other financial irregularities concerns them;
 - o Staff members whose names are mentioned by OLAF as 'persons concerned' or 'witnesses' in notifications of the opening or closure of, or further progress made during, internal investigations or investigations combining internal and external aspects.
- External to the organisation:
 - o Natural persons such as staff members or representatives of applicants in calls for proposals, beneficiaries of grant agreements managed by the Agency, experts (for evaluation, monitoring, etc), candidates in procurement procedures and contractors of the Agency;
 - o Natural persons of other legal entities involved in public contracts or grant agreements managed by the Agency, if the suspicion of potential fraud/irregularities concerns them;
 - o Natural persons such as whistle-blowers, informants, witnesses related to the case analysed and/or sent to OLAF for investigation;
 - o External natural persons whose names are mentioned by OLAF in notifications of the opening or closure of, or further progress made during, internal investigations or investigations combining internal and external aspects.

4. The **categories of personal data** collected and used for the processing operations are:
- Identification data: Last name, first name, address, e-mail, phone number (s), personal number (where applicable) etc.;
 - Data relating to the data subject's professional details: curriculum vitae (CV), position within the entity, function, unit, etc.;
 - Data relating to the conduct of the person, giving rise to possible irregularities: description of the serious wrongdoing/irregularity, source of information, causes of the presumed irregularity, impact on EU interests, amount involved, actions to mitigate the irregularity (taken/planned), etc.
 - Data relating to financial aspects: pre-financing, recovery orders, timesheets in order to provide evidence of payments made to beneficiaries (who are suspected of fraudulent or illegal activity);
 - Data contained in reports (interim, final) in case of natural persons (staff members/ representatives/ members of scientific team) in organisations (beneficiaries of grant agreements)
 - any other information that may assist the Agency in deciding whether to take measures to protect its interests.

The categories of data listed above shall be collected and/or processed on a case-by case basis. Their presence is neither systematic nor necessary and it depends on the content of a particular case.

The processing operation concerning any 'special categories of data' which fall under Article 10(1) of the Regulation shall be prohibited unless any of the reasons under Article 10(2) of the Regulation applies.

Data relating to suspected offences, offences, criminal convictions and or security measures. They are collected and further processed only if they are necessary and proportionate in order to process the files relating to potential fraud and/or other financial irregularities.

5. The **recipients** of the data are:

All recipients are on a "need to know" basis:

- Within the Agency, the following recipients will have access to the data:
 - o The Director of the Agency;
 - o Authorised members of the Agency staff;
 - o The OLAF correspondents within the Agency.
- OLAF may access the data when the Agency refers the case to them for further investigation.

Other potential recipients may be :

- Members of the Steering Committee of the Agency;
- OLAF correspondents within the European Commission and/or other Executive Agencies
- The Panel referred to in Article 143 of the Financial Regulation;
- The European Public Prosecutor's Office (EPPO) when OLAF decides to dismiss the case and transfer it to the EPPO if the case qualifies for criminal offences on the basis of Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office;
- In case of audits or proceedings, etc., CINEA's Internal Controller, Data Protection Officer, Legal Affairs Sector, etc. may also get access to this data.

In addition, data may be disclosed to public authorities such as for instance the below ones, which may not be regarded as recipient in accordance with Union and Member State law. The processing of those data by those public authorities shall be in compliance with the applicable data protection rules according to the purpose of the processing:

- Bodies in charge of a monitoring or an inspection task in application of Union law (e.g. internal audit, IAS, Court of Auditors, etc.);
- The European Court of Justice or a national judge as well as the lawyers and the agents of the parties in case of a legal procedure;
- The European Ombudsman within the scope of the tasks entrusted to it by Article 228 of the Treaty on the Functioning of the European Union
- The European Data Protection Supervisor in accordance with Article 58 of the Regulation (EC) 2018/1725

This transmission is restricted to the information necessary for the legitimate performance of tasks within the competence of the recipient. The recipients of the data are reminded of their obligation not to use the data received for other purposes than the one for which they were transmitted.

6. Data Subjects rights:

You can exercise your rights by sending an email with the requested change(s) to the controller via the functional mailbox indicated here-above in Section 1.

However, in line with Article 25 of the Regulation, the data controller may restrict the rights of the data subjects based on the [Decision of the Steering Committee \(2020\) 26 of 14/10/20 \(OJEU L 45 on 9.2.2021, p. 80\)](#), in case where such restriction constitutes a measure necessary to safeguard the protection of the data subjects or the rights and freedoms of other data subjects, etc.

7. How does CINEA protect and safeguard your data?

Relevant organisational and technical measures are taken by the Agency to ensure the security of your personal data. Access to your data is restricted on an individual need to know basis and through User-ID and password: data can be accessed via authentication system. Your data resides on the servers of the European Commission, which abide by strict security measures implemented by DG DIGIT to protect the security and integrity of the relevant electronic assets. CINEA is also bound by Commission Decision 2017/46 of 10/1/17 on the security of communications & information systems in the EC.

An Outlook functional mailbox is created and used solely for the purpose of handling anti-fraud cases and is under SECDEM encryption. Paper files related to OLAF cases are processed under strict confidentiality via a sealed envelope transmitted hand to hand between the relevant staff authorised to process this information. Paper files are then kept in a locked cupboard accessible only to a limited number of authorised staff in line with the retention rules.

The processing of your data will not include automated decision-making.

8. The legal basis of the processing are:

The legal basis for the processing based on Article 5(1) of the Regulation:

- a) the 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 Agency;
 - b) the processing is necessary for compliance with a legal obligation to which the controller is subject,
- such as:

- Council Regulation 58/2003 of 19 December 2002, laying down the Statute for executive agencies to be entrusted with certain tasks in the management of EU programmes¹;
- Commission Implementing Decision (EU) 2021/173 of 12 February 2021 establishing the European Climate, Infrastructure and Environment Executive Agency, and repealing Implementing Decisions 2013/801/EU²;
- Commission Decision C(2021)947 of 12 February 2021 delegating powers to the European Climate, Infrastructure and Environment Executive Agency with a view to the performance of tasks linked to the implementation of Union programmes in the field of transport and energy infrastructure; climate, energy and mobility research and innovation; environment, nature and biodiversity; transition to low-carbon technologies; and maritime and fisheries;
- Communication of the Commission on Guidelines for the establishment and operation of executive agencies financed by the general budget of the European Communities (SEC(2006) 662 of 31 May 2006);
- Articles 317 and 325 of the Treaty of the Functioning of the European Union (Official Journal of the European Union, C 326, 26 October 2012)
- Commission 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 (hereafter the Financial Regulation);
- Regulation (EU, EURATOM) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999;
- Regulation (EU, Euratom) 2020/2223 of the European Parliament and of the Council of 23 December 2020 amending Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF);
- Council Regulation (Euratom, EC) No 2185/1996 of 11 November 1996 concerning on the spots checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities;
- Decision SC (2008)002 of the Agency Steering Committee of 30/9/2008 on the terms and conditions for internal investigations in relation to the prevention of fraud, corruption and illegal activity detrimental to the Communities' interests to accede to the inter-institutional agreement of 25 May 1999 on investigations by OLAF (OJ L136, 31.05.99, p.15)

9. The **time limits for keeping** the data are the following:

In accordance with the 2022 Retention List of the Commission (SEC(2022)400):

- For the files on the cooperation of the Agency with OLAF in its investigations regarding external natural persons (CLR-under point 4.7.3) : 5 years after the closure of the file
- For the files on the cooperation of the Agency with OLAF in its investigations regarding internal natural persons (CLR-under point 12.4.4) : 15 years after the closure of the file that have given rise to investigations and 5 years after the closure of the files that have not given rise to investigations.

¹ OJ L 11 of 16.01.2003, p. 1

² OJ L 50, 15.2.2021, p. 9–28

10. Contact information

In case you have any questions about the collection/processing of your personal data, you may contact the data controller who is responsible for this processing activity by using the email address mentioned here above in Section 1

You may contact at any time the Data Protection Officer of the Agency (CINEA-DPO@ec.europa.eu). You have the right to have recourse at any time to the European Data Protection Supervisor (edps@edps.europa.eu).