



# DATA PROTECTION AT A GLANCE

# Glossary

## **Controller**

The Community institution or body, such as the EDA, a Directorate, a unit or any other organisational entity which alone or jointly with others determine the purposes and means of the processing of personal data.

## **Data Protection Officer**

The Data Protection Officer is responsible for ensuring, in an independent manner, the internal application of the provisions of the Regulation and keeping a register of data processing operations.

## **Data subject**

Any identified or identifiable natural person, data about whom are processed, is a data subject.

## **Notification**

Prior notice given to the Data Protection Officer of any personal data processing operation. The information to be given includes an indication of the data controller, the purposes of the processing, the legal basis, the categories of data subjects concerned, and any reply recipients of the data.

## **Processing of personal data**

Any operation performed upon personal data, whether or not by automatic means, such as collection, recording, organisation, storage, alteration, retrieval, consultation, use, dissemination, blocking, erasure or destruction.

## **Purpose of processing**

Any data processing must be carried out for specified, explicit and legitimate purposes: data collected or processed must be adequate, relevant and not excessive in relation to the purposes for which they are collected and/or further processed.

## **Regulation (EC) No 45/2001**

Regulation on data protection applicable to the Community/Union institutions and bodies; not to be confused with Directive 95/46/EC<sup>1</sup> addressed to the Member States.

## **Specific categories of data**

These are any personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, trade-union membership, or concerning health or sex life. The processing of such data is in general prohibited, albeit with certain exceptions.

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<sup>1</sup> 1 OJ L 281 of 23.11.1995,

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31995L0046:en:HTML>

## Data protection standards

There is more and more information processed about – and indeed by – each of us. Even items that are banal in themselves can be aggregated and associated with other items in a way that can be intrusive.

Regulation (EC) No 45/2001 is intended to protect the liberties and fundamental rights of individuals with respect to the processing of personal data about them. The Regulation sets out to facilitate the free movement of data under conditions that respect the rights of individuals and their legitimate expectation of privacy.

The rules set out in this Regulation apply to any personal data processing in the European Defence Agency (EDA). All data processing operations (such as collection, consultation, transfer, storing etc ...) are subject to notification to the Data Protection Officer. The notification is then entered into a public register maintained by the Data Protection Officer. The fact that data processing is carried out – but obviously not the data themselves – is therefore public.

## Data protection – the actors

### The primary players in data protection

The central figures in the framework of data protection are the data subject and data controller.

You are a **data subject** if any personal data about you are processed by the EDA. So data subjects include not only staff members of the EDA (temporary agents, contract agents, seconded national experts, etc.) but also other persons who are in contact with the EDA in the framework of its activities and about whom data are collected or otherwise processed, such as applicants, beneficiaries, candidates, contractors, experts, visitors, colleagues from another institutions etc ...

The **data controller** – the entity that determines the means and purposes of processing – is the first line of defence for data subjects. The data controller is responsible for the security of the information processed, and is the contact point for requests by data subjects to exercise their rights.

### The guardians in data protection

There are two actors overseeing data protection matters:

The independent supervisory authority – the **European Data Protection Supervisor** – ensures consistent application of data protection legislation to all institutions of the European Union. He/she monitors the data processing operations of the Community institutions and bodies and gives them advice on how to comply with data protection legislation.

The European Defence Agency's **Data Protection Officer** is at your disposal for advice and information. He/she can give opinions and make recommendations for improving data protection in the EDA.

## Data protection – definitions & general principles

### What is personal data?

Any information about a natural person (i.e. a human being) can be personal data. If an individual is identified by name, or by an identifier, it is likely that the information processed is personal data. An identifier could be an identification number or one or more specific factors specific to the individual's physical, psychological, mental, economic, cultural or social identity.

Personal data may include names, dates of birth, photographs, email addresses or other details such as identity numbers. Sounds recording or images are also personal data, if a person can be identified. The processing of such data needs to be justified by reference to a specific purpose.

Some categories of personal data requires special attention; these are

- Data revealing racial or ethnic origin;
- Political opinion;
- Religious or philosophical beliefs;
- Trade union membership;
- Data about health and sex life.

Personal data in the form of paper records as well as data processed by electronic means are subject to the Regulation.

Personal data are to be kept for a period no longer than necessary for carrying out the purpose for which they were collected.

### What is a processing operation?

Almost anything that can be done to personal data constitutes a processing operation. Collecting, storing, consulting, diffusing data are all examples of kind of processing, as are erasing or destroying data.

Data processing may be justified by either necessity – to carry out a contract or meet a legal obligation – or by the consent of the data subject. The data processed must be up to date, adequate, relevant and not excessive for the purpose of processing which must be determined in advance of collection. Unless a change of purpose explicitly authorised by internal rules, the purpose of processing may not be altered subsequently. As well as ensuring that data are up to date, the data controller must allow data subjects to access their data.

## **What information shall be given to the data subjects whose personal data are being processed?**

The data controller has to give certain information when data are collected. This information includes the identity of the data controller, the purpose of the processing, any recipients of the data, and the existence of the rights of access and of rectification.

The EDA Data Protection Officer keeps a register of processing operations, based on notifications received from data controllers. This register enables data subjects to find out which administrative entity is keeping what information about them.

## **Transfer of personal data**

Under certain conditions, personal data may be transferred to recipients either within or outside the institutions of the European Union. With respect to transfers within or to other Community institutions or bodies, the data must be necessary for the legitimate performance of tasks within the recipient's competence, among other conditions.

Another set of conditions govern transfers to recipients covered by national legislation transposing Directive 95/46/EC: such recipients may be Member State authorities or private bodies. Special conditions apply to recipients not subject to Directive 95/46/EC, namely third countries and international organisations.

## **Rights and obligations**

The data subject enjoys certain rights and the data controller has certain obligations under the Regulation.

### **What are my rights as a data subject?**

The rights granted to data subjects are the cornerstone of the data protection Regulation.

The rights include:

- Access to your personal data, free of charge, and without constraint, within three months;
- Rectification of inaccurate or incomplete personal data;
- Blocking data processing in certain circumstances;
- Erasure of unlawfully processed data;
- The right to object to a processing operation on compelling grounds.

To exercise your rights, address yourself directly to the data controller. To assist you, you can find contact details for the data controller in the Register as well as a form to help you state your request on the data protection page of the EDA's web site (to be implemented).

You may also consult the EDA Data Protection Officer for an opinion on processing operations either concerning you or carried out by you. Please refer to the contact details at the end of this guide.

## **What are my obligations as a data controller?**

The data controller's primary duty is to identify personal data processing operations he or she carries out and to notify them to the Data Protection Officer. Notification should take place before the operation is undertaken. Operations already in place should be notified as soon as possible.

As mentioned previously, the data controller also has a responsibility to furnish certain information to data subjects. The data controller must also facilitate data subjects' access to their data and their exercising other rights such as rectification and erasure.

The data controller must also ensure that appropriate security measures are in place, and issue appropriate instructions to ensure confidentiality if data are processed by others (for example, by a sub-contractor).

Furthermore, in the event of a transfer of data, the controller has to check that requirements of the Regulation (such as the necessity of the transfer) have been met.

## **How to submit a notification?**

The notification form is to be found on the data protection page of the EDA's intranet site, together with a guide to fill it in. Please fill it in, sign and date it and send it as a paper version and by email to the address given. The Data Protection Officer will acknowledge the notification.

## **What remedies do I have?**

If you think that your rights have been infringed you may lodge a complaint directly with the European Data Protection Supervisor.

In the absence of a response within six months, it is possible to bring an action, including claims for damages, before the Court of Justice of the European Union.

For more detailed information, please consult the web site of the European Data Protection Supervisor (see 'Further information and useful address' at the end of this guide).

## 10 major points

### 1. Consent

Consent is a powerful element in the structure of data protection, which can provide a basis for almost any processing operation. It must be informed and freely given.

### 2. Data quality

Data collected and processed must be adequate, relevant and not excessive in relation to the purposes of collection. Moreover, they must be accurate and up-to-date.

### 3. Data transfers

Data transfers are subject to certain conditions depending on the status of the recipient – whether within the Community institutions or bodies, subject to EU Member States law or outside the EU altogether.

### 4. Information

Data subjects have a right to receive certain information (such as the purpose of the processing) about processing concerning them when the data are collected.

### 5. Lawfulness

Personal data are to be processed in accordance with law, which in effect means that processing must be either necessary or consensual.

### 6. Notification

Data processing operations notified to the Data Protection Officer are published in a public register.

### 7. Purpose

Any data processing must be carried out for specified, explicit and legitimate purposes. These purposes may not, in principle, be subsequently changed.

### 8. Remedies

Anyone may ask the Data Protection Officer for an opinion at any time. There is a right to complain to the European Data Protection Supervisor and, finally, the possibility of action before the Court of Justice of the European Union.

### 9. Right of access

Any data subject has the right of access to his or her personal data. This important right opens the door to exercising other rights such as the right of rectification.

### 10. Security

The level of security applied to processing and keeping data must be appropriate with regard to the potential risks to data subjects.

## Further information and useful addresses

The data protection page on the EDA's web site contains information about data protection.

Website: <https://www.eda.europa.eu/info-hub/data-protection>

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