



European Research Council  
Executive Agency

Established by the European Commission

Brussels,  
ERCEA

## **DATA PROTECTION NOTICE**

### **ERCEA Unit D3/Legal sector**

#### **Access to documents**

This notice concerns the processing operation called “handling of requests for public access to documents under Regulation (EC) No 1049/2001”. This processing requires the handling of personal data and is therefore subject to Regulation (EU) 2018/1725 (Data protection regulation)<sup>1</sup>.

### **1. What personal information do we collect, from where and for what purpose?**

#### **1. a) Personal data**

- a) Personal data provided by the person requesting the documents and any other personal data submitted by the applicant in the request:
  - *Compulsory data: Name, specific contact details (e-mail and postal address, country of residence), subject of the request (it may contain personal data in case it relates to an identified or identifiable natural person);*
  - *Non-compulsory data: other contact details (telephone and telefax numbers), category and organisation;*
- b) Personal data, which the applicant provided in his/her application, submitted in another electronic or paper format;
- c) Personal data contained in the documents requested if released under Regulation (EC) No 1049/2001, as well as in the reply to the application and in related correspondence with the applicant.

#### **1. b) Purposes of the processing**

ERCEA collects and uses your personal data in order to handle requests for access to documents lodged under Regulation (EC) No 1049/2001 within the prescribed legal deadlines. The personal data may be processed for the purpose of following up on an inquiry by the European Ombudsman or in case of court proceedings.

Your personal data will not be used for an automated decision-making including profiling.

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<sup>1</sup>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.

### **1. c) From where the data is collected**

Personal data are collected directly from the applicants who request public access to documents under Regulation 1049/2001. Personal data can be provided by the applicant in his/her application submitted via the online form or in another electronic or paper format. Personal data are also contained in the documents requested if released under Regulation (EC) No 1049/2001, as well as in the reply to the application and in related correspondence with the applicant. Personal data that appear in the requested documents have been collected for specific purposes, such as the handling of complaints or for recruitment purposes.

### **2. Who has access to your information and to whom is it disclosed?**

Access to your personal data is provided to authorised staff of the ERCEA responsible for carrying out the processing operation and according to the ‘need to know’ principle. Such staff abide by statutory, and when required, additional confidentiality agreements.

Personal data that appear in the documents requested may be disclosed to the public following an assessment under Regulation (EC) No 1049/2001, read in conjunction with Article 9 of Regulation (EU) 2018/1725. If you reside outside the EU and the ERCEA grants you access to documents, personal data included in these documents will only be disclosed to you if such transfer fulfils the conditions of Chapter V of the Regulation (EU) 2018/1725 on international transfers of personal data.

The personal information we collect on the applicants who request access to documents will not be given to any third party, except:

- to the extent and for the purpose we may be required to do so by law; and
- for the purpose of dispatching access-to-documents decisions of the ERCEA by registered mail via the processor DHL International (established in Belgium).

In addition, certain administrative details may be disclosed, in compliance with the relevant current legislation and established case law, and on a temporary basis to legislative or supervisory bodies of the ERCEA, as well as auditing bodies.

### **3. What are your rights?**

You have the right to access the personal data the ERCEA holds about you and to request to have them rectified where necessary. Where applicable, you have the right to request restriction or to object to processing, to request a copy or erasure of your personal data held by the data controller.

To exercise any of these rights, you should apply to the Head of Unit Legal Affairs and Internal Control, who is responsible for such processing (i.e. the Controller), by sending an e-mail specifying your request to the mailbox indicated in point 5. Please note that in some cases restrictions under the terms and conditions of Article 25 of the Data protection regulation may apply.

As this processing of your personal data is based on your consent [point (d) of Article 5(1) or point (a) of Article 10(2)], please note that you can withdraw it at any time, and this will have effect from the moment of your retraction. The processing based on your consent before its withdrawal will remain lawful.

#### **4. How long do we keep your data?**

The ERCEA only keeps your personal data for the time necessary to fulfil the purpose of collection or further processing, namely no longer than five years after the closure of a case-file.

**At the initial stage**, a file is considered closed after the initial decision of the ERCEA has become final (i.e. there was no confirmatory application), unless follow-up is required by an enquiry of the European Ombudsman.

In such case, a file is considered closed if the European Ombudsman has closed its enquiry in relation to the complaint without any need for further action on the part of the ERCEA with regard to the application for access to documents.

**At the confirmatory stage**, a file is considered closed after the confirmatory decision of the ERCEA has become final, namely:

- the deadline for bringing proceedings before the EU Courts has elapsed; or
- the EU Court confirmed the confirmatory decision; or
- the ERCEA completed the follow-up requested by the EU Court in its Judgment.

A file is not considered closed despite the confirmatory decision being final in case of an enquiry of the European Ombudsman requiring follow-up. In such case, a file is considered closed if the latter has closed its enquiry in relation to the complaint without any need for further action on the part of the ERCEA with regard to the application for access to documents.

This ‘administrative retention period’ of five years is based on the retention policy of ERCEA 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](#), which the ERCEA also follows. It is a regulatory document in the form of a retention schedule that establishes the retention periods for different types of files. That list has been notified to the European Data Protection Supervisor.

The ‘administrative retention period’ is the period during which the ERCEA is required to keep a file depending on its usefulness for administrative purposes and the relevant statutory and legal obligations. This period begins to run from the time when the file is closed.

In accordance with the above-mentioned retention list, after the ‘administrative retention period’, files concerning requests for access to documents at the confirmatory stage (and the personal data contained in them) shall be transferred to the Historical Archives of the European Commission for historical purposes.

However, we may keep information identifying you for a longer period for historical, statistical or scientific purposes with the appropriate safeguards in place.

#### **5. Contact information**

If you would like to receive further information, you can contact the responsible person (the Data Controller), Head of Unit ERCEA Legal Affairs and Internal Control via the mailbox: [ERC-ACCESS-TO-DOCUMENTS@ec.europa.eu](mailto:ERC-ACCESS-TO-DOCUMENTS@ec.europa.eu)

The ERCEA Data Protection Officer is at your disposal for any clarification you might need on your rights under Regulation (EU) 2018/1725 at the following e-mail address:

[ERC-DATA-PROTECTION@ec.europa.eu](mailto:ERC-DATA-PROTECTION@ec.europa.eu)

You have the right to have recourse (i.e. you can lodge a complaint) to the European Data Protection Supervisor ([edps@edps.europa.eu](mailto:edps@edps.europa.eu)) if you consider that your rights under Regulation (EU) 2018/1725 have been infringed as a result of the processing of your personal data by the Data Controller.

## **6. Legal basis**

The ERCEA processes your personal data, because:

- processing is necessary for the performance of a task carried out in the public interest (Article 5(1)(a) of Regulation (EU) 2018/1725); and
- processing is necessary for compliance with a legal obligation to which the ERCEA is subject (Article 5(1) (b) of Regulation (EU) 2018/1725).

Furthermore, the processing of non-compulsory personal data you provide in your request for access to documents (see section 1.a) above) is based on your consent (Article 5(1)(d) of (EU) Regulation 2018/1725).

The processing pursuant to Articles 5(1) (a) and (b) needs to be based on Union law, namely Article 15(3) of the Treaty on the Functioning of the European Union and [Regulation \(EC\) No 1049/2001](#).