



DECISION ECSEL-ED-2014-007 OF THE EXECUTIVE DIRECTOR

Adopting implementing rules concerning the data protection officer

THE EXECUTIVE DIRECTOR OF THE ECSEL JOINT UNDERTAKING,

Having regard to Council Regulation (EU) No 561/2014 establishing the ECSEL Joint Undertaking (JU),

Having regard to Regulation (EC) 45/2001 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data,

Having regard to decision ECSEL-ED-2014-006 appointing ECSEL data protection officer,

Whereas,

- 1) Regulation (EC) No 45/2001, hereinafter referred to as the "Regulation", sets out the principles and rules applicable to all Community institutions and bodies and provides for the appointment by each Community institution and Community body of a Data Protection Officer;
- 2) Article 24(8) of the Regulation requires that further implementing rules concerning the Data Protection Officer shall be adopted by each Community institution or body in accordance with the provisions in the Annex. The implementing rules shall in particular concern the tasks, duties and powers of the Data Protection Officer;

HAS DECIDED AS FOLLOWS:

SECTION 1

GENERAL PROVISIONS

Article 1 Definitions

For the purpose of this Decision the definitions provided in the Regulation apply. In particular:

- “Controller”, as defined in Article 2(d) of the Regulation and for the purpose of this decision, shall mean the Executive Director or a staff member responsible for processing the personal data.
- “Processor”, as defined in Article 2(e) of the Regulation and for the purposes of this decision, shall mean a staff member responsible for processing personal data on behalf of the controller.

Article 2 Scope

This Decision defines the rules and procedures for implementation of the function of Data Protection Officer (hereinafter referred to as the “DPO”) within the ECSEL Joint Undertaking (hereinafter referred to as the “Joint Undertaking”) pursuant to Article 24(8) of the Regulation.

SECTION 2

THE DATA PROTECTION OFFICER

Article 3 Appointment and Status

The Joint Undertaking shall appoint a DPO and register him with the European Data Protection Supervisor (hereinafter referred to as the “EDPS”).

The term of office of the DPO shall be two years, renewable up to a maximum total term of ten years.

The DPO shall act in an independent manner with regard to the internal application of the provisions of the Regulation and may not receive any instructions with respect to the performance of his duties.

The DPO shall be selected from the staff of the Joint Undertaking. The DPO should have a sound knowledge of data protection and of the Joint Undertaking's administrative rules and procedures.

Without prejudice to the provisions of the Regulation concerning his or her independence and obligations, the DPO shall report directly to the Director. This reporting obligation shall be taken into account in the context of the performance appraisal of the staff member appointed as DPO, for which the Director shall ensure equal and fair treatment.

The DPO shall not suffer any prejudice on account of the performance of his or her duties.

In accordance with the Regulation, the DPO may be dismissed from his post by the Executive Director, but only with the consent of the EDPS, if he/she no longer fulfils the conditions required for the performance of his duties.

Without prejudice to the relevant provisions of the Regulation, the DPO shall be subject to the rules and regulations applicable to officials of the European Union.

Article 4 *Tasks and Duties*

Without prejudice to the tasks as described in Article 24 of the Regulation and in its Annex, the DPO shall perform the following tasks and accomplish the following duties:

1. Advise the Executive Director and the Controllers on matters concerning the application of data protection provisions in the Joint Undertaking, either on request, or on his own initiative.
2. The DPO may be consulted by the Director of the JU, any of the controllers concerned, or any individual on any matter concerning the interpretation or application of the Regulation;
3. The DPO shall - either on his own initiative or on the request of the Director of the JU, a Controller, or any individual concerned – investigate matters and occurrences directly related to DPO tasks and duties and report back to the person who commissioned the investigation;
4. Help the controllers to assess the risks of the processing operations under their responsibility;
5. Keep a public register of the operations involving processing of personal data in the Joint Undertaking, in cooperation with the controllers, and notify the EDPS if those operations are likely to present any risks referred to in Article 27 of the Regulation;
6. Respond to the requests of the EDPS and work together with the EDPS on the subject of data protection either on his own initiative or on the request of the EDPS;
7. Cooperate with the DPOs of other institutions and bodies of the European Union, in particular by exchanging experience and sharing know-how, participating in the

dedicated networks of DPOs and representing the Joint Undertaking in relation to the data protection issues.

Article 5
Powers

In performing his tasks and duties and without prejudice to the powers conferred by the Regulation, the DPO may:

1. make recommendations to the Executive Director or to the Controllers on the issues concerning the data protection;
2. report any breach of the data protection rules to the Executive Director;
3. handle queries and complaints, in compliance with the Annex to the Regulation;
4. have access to necessary training with regard to the legal and technical aspects of data protection;
5. regularly attend the meetings with the EDPS and DPOs of other institutions and bodies of the European Union;

In the performance of his duties, the DPO shall have access at all times to the data forming the subject matter of processing operations and to all data-processing installations and data carriers.

SECTION 3

RULES AND PROCEDURES

Article 6
Controllers

1. Without prejudice to the provisions of the Regulation concerning their obligations, Controllers shall:
 - a. Ensure that all processing operations involving personal data within their area(s) of responsibility comply with the Regulation;
 - b. Prepare without delay notifications to the DPO for all processing operations, using the notification form available made available by the DPO. The form shall be printed, signed by the Controller and submitted to the DPO. The notification shall contain all information required in Article 25(2) of the Regulation;
 - c. Notify the DPO in due time about processing operations which are likely to present specific risks under Article 27 of the Regulation bearing in mind that the prior checking procedure with the EDPS lasts at least two months and the operation cannot be implemented before the EDPS has communicated its opinion;

- d. immediately inform the DPO about any change affecting the information referred to in paragraphs (b) and (c);
 - e. in relation to processing operations and inquiries or investigations conducted by the DPO, answer the request of the DPO for information and grant him/her access to the relevant personal data within 5 working days of receipt of such request;
 - f. where appropriate, consult the DPO on the conformity of processing operations, in particular in the event of doubt as to conformity.
2. The Controller may delegate certain parts of his tasks to other persons acting as a Processor under his/her authority and responsibility.

Article 7
Processors

Processors within the Joint Undertaking required to process personal data on behalf of Controllers shall act only on the Controllers' instructions and process such personal data in strict compliance with the Regulation, and any other applicable legislation on data protection.

Article 8
Rights of data subjects

1. The register kept by the DPO pursuant to Article 26 of the Regulation shall serve as an index of all processing operations relating to personal data in the Joint Undertaking. The register shall be accessible through the Website of the Joint Undertaking and in paper format. Data subjects may make use of the information contained in the register to exercise their rights under Articles 13 to 19 of the Regulation and in particular the right of access, rectification, blocking, erasure and objection in relation to personal data.
2. Data subjects will be informed by the Controllers about their rights, in particular as specified in Article 11 and Article 12 of the Regulation.
3. Further to their right to be appropriately informed about any processing of their personal data, data subjects may approach the relevant controller to exercise their rights pursuant to Articles 13 to 19 of the Regulation, as specified below:
 - (a) These rights may only be exercised by the data subject or their duly authorised representative. Such persons may exercise any of these rights free of charge.
 - (b) Requests to exercise these rights shall be addressed in writing to the relevant Controller. The Controller shall only consider the request if the requester's identity and, if relevant, their entitlement to represent the data subject have been appropriately verified. The Controller shall without delay inform the data subject in writing of whether or not the request has been accepted. If the request has been rejected, the Controller shall include the grounds for the rejection.

- (c) The Controller shall, at any time within three calendar months of receipt of the request, by paying due attention to the urgency of the request, grant access pursuant to Article 13 of the Regulation by enabling the data subject to consult the data on-site or to receive a copy thereof, according to the applicant's preference.
 - (d) Data subjects may contact the DPO in the event that the Controller does not respect either of the time limits in paragraphs (b) or (c). In the event of obvious abuse by a data subject in exercising his rights, the Controller may refer the data subject to the DPO. If the case is referred to the DPO, the DPO will decide on the merits of the request and the appropriate follow-up. In the event of disagreement between the data subject and the Controller, both parties shall have the right to consult the DPO.
- 4. The exemptions and restrictions as specified in Article 20 of the Regulation apply.
 - 5. The JU staff members may consult the DPO before lodging a complaint with the EDPS pursuant to Article 33 of the Regulation.

Article 9
Investigation Procedure

- 1. The requests for an investigation mentioned in Article 4(3) hereof shall be addressed to the DPO in writing. Within 15 working days upon receipt, the DPO shall send an acknowledgment of receipt to the person who commissioned the investigation, and verify whether the request is to be treated as confidential. In the event of obvious misuse of the right to request an investigation, the DPO shall not be obliged to report back to the requester.
- 2. The DPO may request a written statement on the matter from the Controller who is responsible for the data-processing operation in question. The Controller shall provide his response to the DPO within 15 working days.
- 3. The DPO shall report back to the person who commissioned the investigation no later than three months following its receipt. This period may be suspended until the DPO has obtained any further information that he or she may have requested.

SECTION 4
FINAL PROVISIONS

Article 10
Entry into Force

This Decision enters into force on the date of its signature.

Done in Brussels on 22 July 2014,



Andreas Wild

Executive Director

