

Record of Personal Data Protection of Personal Data Processing Activity, pursuant to Article 31 of Regulation (EU) 2018/1725¹

EBA Monitoring of Posted Workers

I. GENERAL INFORMATION

1) Contact Details of Controller(s) (Note 2)	
Name: European Banking Authority (EBA) represented by the executive director Francois Louis-Michaud	
Email Address: executiveoffice@eba.europa.eu	
2) Contact Details of Processor <i>Who is actually conducting the processing?</i>	
Name/Data Protection Coordinator's Name: IT Unit	
Department/Unit:	IT / Operations
Email Address:	it.support@eba.europa.eu
Date:	17.08.2020

II. DESCRIPTION & PURPOSE OF PROCESSING

3) Description of Processing (see Note 3)
In compliance with the French law n° 2018-771 of 5 September 2018 ² transposing the European Directive 2018/957 ³ , the European Banking Authority ('EBA') must verify that

¹ 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

² Loi n° 2018-771 du 5 septembre 2018 pour la liberté de choisir son avenir professionnel.

³ Directive (EU) 2018/957 of the European Parliament and of the Council of 28 June 2018 amending Directive 96/71/EC concerning the posting of workers in the framework of the provision of services.

all contractors detaching their workers within EBA premises fulfil their administrative duties towards the relevant French authorities.

This verification constitutes EBA performing due diligence. Nevertheless, it is the sole responsibility of the contractor to ensure compliance.

With regards to the above,

(i) EBA shall monitor and assess the compliance of the relevant contractor staff by keeping a register of pertinent data and inspecting documentary evidence relating to the contractor or contractor staff.

(ii) In addition to *monitoring the compliance*, EBA must also be able to demonstrate that they are monitoring the compliance. To achieve this EBA shall retain in a repository, **a copy of the documentary evidence of the contractor or contractor staff**. This repository of evidence shall be used to the minimal extent necessary to demonstrate to audit or other inspection authorities, that the EBA have performed the necessary due diligence.

4) Purpose of processing (see Note 4)

Why are the personal data being processed?

Specify the rationale and underlying reason for the processing

- Staff administration
- Relations with external parties
- Procurement, finance and accounting
- Administration of membership records
- Auditing
- Information administration

Other (please give details):

Contract Management, with regards to EBA performing due diligence to best ensure that the contractor is compliant with their obligations under local laws, and hence delivering services in a compliant manner.

5) Lawfulness of Processing

Article 5 of Regulation (EU) 2018/1725

A. Legal Basis justifying the processing:

Article 5(1)(b) of the EUDPR - processing is necessary for compliance with a legal obligation to which the EBA is subject.

In compliance with the French law n° 2018-771 of 5 September 2018⁴ transposing the European Directive 2018/957⁵, the European Banking Authority ('EBA') must verify that all contractors detaching their workers within EBA premises fulfil their administrative duties towards the relevant French authorities.

B. Processing is necessary:

- for the performance of a task carried out in the public interest
- for compliance with a legal obligation to which the Controller is subject
- for the performance of a contract to which the data subject is party or in order to take steps at the request of the data subject prior to entering into a contract
- in order to protect the vital interests of the data subject or of another natural person

Or

- Data subject has given his/her unambiguous, free, specific and informed consent

III. CATEGORIES OF DATA SUBJECTS & PERSONAL DATA

6) Categories of Data Subjects (see Note 5)

⁴ Loi n° 2018-771 du 5 septembre 2018 pour la liberté de choisir son avenir professionnel.

⁵ Directive (EU) 2018/957 of the European Parliament and of the Council of 28 June 2018 amending Directive 96/71/EC concerning the posting of workers in the framework of the provision of services.

Please tick all that apply and give details where appropriate

- EBA Temporary Agents or Contract Agents
- SNEs or trainees
- Visitors to the EBA (BoS, MB, Working Groups, Sub-Groups, Seminars, Events, other)

If yes, please specify:

- Providers of good or services
- Complainants, correspondents and enquirers
- Relatives and associates of data subjects

Other (please specify):

7) Categories of personal data (see Note 6)

Please tick all that apply and give details where appropriate

(a) General personal data:

The personal data contains:

- Personal details (First and last name, address, date of birth, contact details, nationality, marital status and any other data included in the documents provided.)
- Education & Training details
- Employment details
- Financial details
- Family, lifestyle and social circumstances

Other (please give details) : Administrative

- data regarding staff health insurance/social security coverage, eg. health insurance number. (Not medical data.)
- contractor company name;
- names of the workers sent by the contractors;
- expiry dates of work permit / ID Card;
- documents (including Notification of Detachment) received related to the above, if they contain personal data.

(b) Special categories of personal data:

The personal data reveals:

- Racial or ethnic origin
- Political opinions
- Religious or philosophical beliefs
- Trade union membership
- Genetic or Biometric data
- Data concerning health, sex life or sexual orientation

Important Note

If you have ticked any of the sensitive data boxes contact the Data Protection Officer before processing the data further.

IV. CATEGORIES OF RECIPIENTS & DATA TRANSFERS

8) Recipient(s) of the data

To whom is the data disclosed?

- Managers of data subjects
- Designated EBA staff members
- Relatives or others associated with data subjects
- Current, past or prospective employers
- Healthcare practitioners
- Education/training establishments
- Financial organisations
- External contractor

Other (please specify):

9) Data transfer(s)

Is the data transferred outside the EBA?

Within the EBA or to other EU Institutions/Agencies/Bodies

If yes, please specify:

- European Court of Auditors, Ombudsman of the EU, other institutions and bodies of the EU with supervisory and investigatory powers over the EBA.

To other recipients within the EU (e.g. NCAs)

- French authorities responsible for compliance auditing.

To third countries

If yes, please specify:

a) the country:

b) whether suitable safeguards have been adopted:

Adequacy Decision of the European Commission⁶

Standard Contractual Clauses

Binding Corporate Rules

Administrative Arrangements between public Authorities

To international organisations

If yes, please specify the organisation and whether suitable safeguards have been adopted:

⁶ Third countries for which the European Commission has issued adequacy decisions are the following: https://ec.europa.eu/info/law/law-topic/data-protection/data-transfers-outside-eu/adequacy-protection-personal-data-non-eu-countries_en

<p>Important Note If no safeguards have been put in place, please contact the DPO before processing the data further.</p>
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V. RETENTION PERIOD & SECURITY MEASURES

10) Retention period (see Note 7)
A. How long will the data be retained and what is the justification for the retention period?
10 years, following ending of the contract.

B. For further processing envisaged beyond the original retention period for historical, statistical or scientific purposes, please specify whether the personal data will be anonymised:

No

Yes

11) Storage media & security of processing

A. Please indicate how and where the data processed are stored (e.g. Share Point / cloud):

Windows share drive, in Cloud.

B. Technical & Organisational Security measures adopted:

Controlled access to ICT-system/controlled access codes

Restricted access to physical location where data is stored

Pseudonymisation and Encryption

Back-up

Audit trails

Confidentiality agreement/clause

Test the effectiveness of security measures adopted

Training of staff

Other (please specify):

Consultation of the Data Protection Officer

Email Address: dpo@eba.europa.eu

Date of consultation: 18.12.2020

Date of approval of processing: 20/12/2020

Privacy statement available at: available internally

Date of insertion in Register: 20/12/2020

Guidance Notes

Note 1

Enter here the name of the processing operation involving personal data (e.g. staff recruitment, business continuity contact list)

Personal data is any information relating either directly or indirectly to a living identified or identifiable person. This information may, for example, be the name, date of birth, a telephone number, biometric data, medical data, professional details, etc.

Processing means any operation or set of operations which is performed upon personal data, whether or not by automatic means, such as collection, recording, organisation, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, blocking, erasure or destruction.

Note 2

In case of more than one controller (i.e. joint processing operations), all controllers need to be listed.

Note 3

Enter any details of the processing operation that are not clear from the name of the operation entered above.

Note 4

Personal data must only be collected for specified, explicit and legitimate purposes and not further processed in a way incompatible with those processes.

Note 5

The data subject is an identified or identifiable natural person who is the subject of the personal data.

Note 6

According to Article 10 of Regulation (EU) 2018/1725, the processing of personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, trade-union membership, as well as of genetic and biometric data, and data concerning health and sex life or sexual orientation, is generally prohibited but exemptions may apply.

Note 7

Personal data should be kept for no longer than is necessary for the purposes for which the data were collected or for which they are further processed.