

*(To be filled out in the EDPS' office)*  
REGISTER NUMBER: 1424

*(To be filled out in the EDPS' office)*

**NOTIFICATION FOR PRIOR CHECKING**

**DATE OF SUBMISSION: 06/01/2017**

**CASE NUMBER: 2017-0028**

**INSTITUTION: EASME**

**LEGAL BASIS: ARTICLE 27-5 OF THE REGULATION CE N° 45/2001<sup>(1)</sup>**

**INFORMATION TO BE GIVEN**

1/ NAME AND ADDRESS OF THE CONTROLLER

EXECUTIVE AGENCY FOR SMALL AND MEDIUM-SIZED ENTERPRISES (EASME)

EASME Director (can be delegated to Heads of Department A, B or C),  
Marco Malacarne, acting Director, [Marco-vb.Malacarne@ec.europa.eu](mailto:Marco-vb.Malacarne@ec.europa.eu)

Place Charles Rogier - COV2 11/138

B-1000 Brussels

2/ ORGANISATIONAL PARTS OF THE INSTITUTION OR BODY ENTRUSTED WITH THE PROCESSING OF PERSONAL DATA

EASME Directorate (can be delegated to Heads of Department A, B or C)

3/ NAME OF THE PROCESSING AND SHORT DESCRIPTION OF THE PROCESSING

NAME UNDER WHICH THE PROCESSING IS BEING ORGANISED:

**Use of the Early Detection and Exclusion System (EDES) by EASME**

SHORT DESCRIPTION OF THE PROCESSING:

The EDES is the new system established by the Commission to reinforce the protection of the Union's financial interests and to ensure sound financial management. It replaces the Early Warning System and the Central Exclusion Database<sup>2</sup>.

<sup>1</sup> OJ L 8, 12.01.2001.

<sup>2</sup> DPO 5-2013 was notified to EDPS for prior-check.

The information exchanged within the Early Detection and Exclusion System (EDES) referred to in Article 105a of the Financial Regulation (FR)<sup>3</sup> is centralised in the EDES-database (EDES DB) set up by the Commission.

The information on early detection or exclusion of an economic operator is entered in the EDES DB by the relevant authorising officers of the Commission or of its Executive Agencies, by other Institutions, bodies, European offices and agencies.

The European Commission controls and validates the cases that the Institutions, bodies, European offices and Agencies create.

The information on possible EDES registration is incorporated in the Legal Entity Files ("LEF"), which comprise all entities (legal and natural persons) with whom the Commission and its Executive Agencies have financial dealings (such as contracts, payments, grants etc).

For the exclusion and financial penalties cases (Article 108 FR), a new Panel is set-up to assess the files and issue recommendations. The competent authorising officer will refer a case to the Panel for a central assessment where there are no final judgments or final administrative decisions related to the exclusion and its duration or to the financial penalty, and their publication. The Panel is also competent to ensure the rights of defence of the economic operator.

The database for the EDES is set up and operated by the Commission (DG BUDG Unit D.1).

The architecture and use of the EDES as adopted by the Commission will be notified to the EDPS by the Commission.

**Sources of information to consider the registration of a case by the Agency:**

- Information transmitted by OLAF to the authorising officer under Regulation 883/2013 OLAF investigation in progress or completed);
- Results of audits, checks or controls carried out by the authorising officer or made known to him/her;
- Facts and findings from the Court of Auditors;
- Information of fraud and/or irregularity transmitted by entities in indirect management (Art. 60 FR);
- Information of fraud and/or irregularity transmitted by national authorities in shared management (Art. 59 FR);
- (Non) final judgments or administrative decisions;
- Decisions of the ECB, the EIB, the European Investment Fund or international organisations;
- Decisions of the Commission relating to the infringement of the Union's competition rules, etc.

Within EDES, the following procedures exist:

**Procedure for early detection registration by the Agency:**

- Prior consultation of central services (Art.34 (1)IR<sup>4</sup>) through a note and relevant supporting documents;
- The AORs decide to follow the recommendation of the panel or not (in duly justified cases) and notifies the economic operator;
- After the acknowledgement of receipt of the notification has been received, the information can be entered in the EDES DB;
- The European Commission, DG BUDG, receives a copy of the acknowledgement of receipt of the notification and validates the case in the EDES DB.

<sup>3</sup> Regulation (EU, Euratom) [No 966/2012](#) of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 (OJ L 298 of 26.10.2012, p. 1) as amended by Regulation 2015/1929 of 28.10.2015 (OJ L296 of 30.10.2015 p.1.).

<sup>4</sup> Commission Decision [C\(2016\)769](#) of 12.2.2016 on the Internal Rules on the implementation of the general budget of the European Union (European Commission section) for the attention of the Commission departments, as amended by Commission decision [C\(2016\) 1782](#) final of 23.3.2016.

**Procedure for the imposition of administrative sanctions (PANEL) by the Agency:**

- Referral of cases to the Panel through a note and the relevant supporting documents;
- The Panel issues a recommendation;
- The AORs decide to follow the recommendation of the Panel or not (in duly justified cases) and notifies the economic operator;
- After the acknowledgement of receipt of the notification has been received, the administrative sanction can be entered in the EDES DB;
- The European Commission, DG BUDG, receives a copy of the acknowledgement of receipt of the notification and validates the case in the EDES DB.

**Procedure for the creation of cases under Art. 106 (1)(a), (b) FR (NO PANEL) by the Agency:**

- Once in possession of official certificate of the situations mentioned under Article 106 (1) (a), (b) FR, the economic operator is notified about the intention of registration of a case (see BUDG template – Annex 6)
- After the acknowledgement of receipt has been received, the information can be entered in the EDES DB;
- The above mentioned certificate, the notification to the economic operator and the acknowledgement of receipt are sent to European Commission (BUDG EDES DB) for validation in the EDES DB.

4/ PURPOSE OR PURPOSES OF THE PROCESSING

The purpose of the EDES is to ensure within the Commission and its Executive Agencies, including EASME, the circulation of restricted information concerning third parties who could represent a threat to the European Union's financial interests and reputation or to any other fund administered by the European Union. This concerns information on third parties with whom the Commission and its Executive Agencies, including EASME, have or are likely to have financial relations and for which a risk has been identified or which are suspected of, or have been confirmed of, having committed fraud or serious administrative errors or irregularities. The EDES DB contains all entities which are in a situation as defined by in Art 106 FR. The EDES and the EDES DB are centrally managed by the European Commission, DG BUDG, who controls and validates the cases.

In particular, the purpose of the EDES database is:

- the early detection of an economic operator representing risks threatening the Union's financial interests;
- the exclusion of an economic operator from receiving Union's funds (Article 106(1) FR);
- the imposition of a financial penalty on an economic operator (Article 106(13) FR);
- the publication of information related to the exclusion and, where applicable, the financial penalty in the most severe cases, on the Commission's Internet site, in order to reinforce their deterrent effect (Article 106(16) and 106(17) FR).

The present notification only covers the processing operation by the Agency when implementing EDES.

5/ DESCRIPTION OF THE CATEGORY OR CATEGORIES OF DATA SUBJECTS

All natural persons who have been registered via the LEF directly, as well as all natural persons with powers of representation, decision-making or control over given legal persons who are registered via the LEF and could thus potentially be included in the EDES or EDES DB of the Commission, including those notified by EASME and:

- who is in one of the exclusion situations listed in Article 106(1) FR;
- where a person who is a member of the administrative, management or supervisory body of that economic operator, or who has powers of representation, decision or control with regard to that economic operator, is in one or more of the situations referred to in points (c) to (f) of Article 106(1) FR;
- where a natural or legal person that assumes unlimited liability for the debts of that economic operator is in one or more of the situations referred to in point (a) or (b) of Article 106(1) FR;

6/ DESCRIPTION OF THE DATA OR CATEGORIES OF DATA (*including, if applicable, special categories of data (Article 10) and/or origin of data*).

The categories of personal data that will be processed in the EDES on a case-by-case basis are the following:

- Identification and contact information: name, address, e-mail address and telephone number country, identity card number/passport number/driving license (or other document proving identity), issuing country, date of birth, place of birth of individuals currently registered in EDES<sup>5</sup> or that shall be registered thereby, of persons within EASME requesting the registration of a warning (including their function) and/or of the informant (if any).
- Data on the link (if existing) with a legal entity file kept in the accounting system of the Commission
- Data on exclusion or early detection of financial penalty
- Ground (in the case of exclusion) in accordance with Article 106 (1) FR (if not confidential, see Art 106(17) FR): the reasons may include data relating to suspected fraud, insolvency, conviction of a serious professional misconduct or criminal offences that may be detrimental to the EU's financial interests.
- Type of EDES case (i.e Early detection or Exclusion);
- Data on the duration of the exclusion or early detection: starting end, ending date, extension
- Data on the Panel (Article 108 (6) FR): if the case is submitted to the panel, date of the panel, if observations were submitted by the economic operator, if the recommendation of the Panel was taken into account, revision of the Panel's recommendation, etc.;
- Data on the financial penalty: amount, if the amount was paid;
- Authorising officer responsible for the case;
- Contact person responsible for the case.

<sup>5</sup> Data is provided by the data subject through the LEF and can only be managed at the Commission level.

The following special categories of personal data may be processed, pursuant to Article 106 (1) of the Financial Regulation.

- Data relating to insolvency or winding-up procedures, or an analogous situation;
- Data relating to the non-payment of taxes or social security contributions;
- Data relating to grave professional misconduct (fraudulent misrepresentation of information, distortion of competition, violation of intellectual property rights, attempt to influence the decision making process of the contracting authority during a procurement procedure, etc.)
- Data relating to fraud, corruption, participation in criminal organisation, money laundering, offences linked to terrorist activities, child labour or other forms of trafficking in human beings;
- Data relating to significant deficiencies in complying with main obligations in the performance of a contract;
- Data relating to an irregularity.

According to Art 106(16) of the Financial Regulation in order to, where necessary, reinforce the deterrent effect of the exclusion and/or financial penalty, subject to a decision of the contracting authority, shall publish on its internet site the following information related to the exclusion and, where applicable, the financial penalty in the cases referred to in Art 106 (1) FR points (c), (d), (e) and (f):

- (a) the name of the economic operator concerned;
- (b) the exclusion situation by reference to paragraph 1 of this Article;
- (c) the duration of the exclusion and/or the amount of the financial penalty.

#### 7/ INFORMATION TO BE GIVEN TO DATA SUBJECTS

As instructed in the EASME manual of procedures, calls for proposals, calls for tenders, calls for expression of interest/invitations to experts and the relevant contracts must include an EDES clause, whereby applicants are informed that they may be included in the EDES-DS under certain circumstances, and of the entities to which the data may be communicated.

• **Calls for tenders:** the information given on processing of data is contained in the invitation to tender and in the model of contract attached to the tender procedure and subsequently endorsed (signed) by the successful tenderer. The invitation to tender (see Annex 1 for an example<sup>6</sup>) provides as follows:

"Your personal data may be registered in the Early Detection and Exclusion System (EDES) if you are in one of the situations mentioned in Article 106 of the Financial Regulation<sup>7</sup>. For more information, see the Privacy Statement on: [http://ec.europa.eu/budget/explained/management/protecting/protect\\_en.cfm](http://ec.europa.eu/budget/explained/management/protecting/protect_en.cfm)."

<sup>6</sup> Further information on the processing of personal data to the data subjects is provided in the notification on calls for tenders (DPO 04-2013) currently under revision, to be submitted to EDPS shortly.

<sup>7</sup> OJ L 298/1 of 26.10.2012, as amended by Regulation 2015/1929 of 28.10.2015 (OJ L296 of 30.10.2015 p.1).

• **Calls for proposals:** the information given on processing of data is contained in the call for proposals and in the model grant agreement subsequently endorsed (signed) by the grantee. The call for proposals (see Annex 2 for an example<sup>8</sup>) provides as follows:

"Personal data may be registered in the Early Detection and Exclusion System (EDES) should the beneficiary be in one of the situations mentioned in Article 106 of the Financial Regulation establishing<sup>9</sup> the Early Detection and Exclusion System (EDES) (for more information see the Privacy Statement on: [http://ec.europa.eu/budget/explained/management/protecting/protect\\_en.cfm](http://ec.europa.eu/budget/explained/management/protecting/protect_en.cfm))."

• **Experts:** the information given on processing of data is contained in the call for expression of interest/invitation to experts and in the model expert contract/appointment letter subsequently endorsed (signed) by the expert. The expression of interest/ expert contract / appointment letter (see Annex 3 for an example<sup>10</sup>) provides as follows:

"Your personal data may be registered in the Early Detection and Exclusion System (EDES) if you are in one of the situations mentioned in Article 106 of the Financial Regulation<sup>11</sup>. For more information, see the Privacy Statement on: [http://ec.europa.eu/budget/explained/management/protecting/protect\\_en.cfm](http://ec.europa.eu/budget/explained/management/protecting/protect_en.cfm)"

It should be noted that the EDES webpage on the Europa website includes a privacy statement with information on the processing of personal data statement (see Annex 4).

#### 8/ PROCEDURES TO GRANT RIGHTS OF DATA SUBJECTS (Rights of access, to rectify, to block, to erase, to object)

The purpose of EDES is the detection and circulation of restricted information concerning economic operators who represent a threat to the Union financial interests. Consequently, the EDES is accessible to all AORs of the Commission, other Institutions, executive agencies, European Offices, decentralised agencies and other Union bodies.

Within the EASME, the access to the EDES DB is granted to the staff members who have access to ABAC, since they perform budget implementation tasks.

The access is granted by the Organisation User Administrator (OUA). Within the EASME, the Organisation User Administrators (OUA) are the two Local Profile Managers (LPM).

The information contained in the database shall be updated, where appropriate, following a rectification or an erasure or any modification of data. It shall only be published in accordance with Article 106(16) and (17) of this Regulation. The information published shall be removed as soon as the exclusion has come to an end. In the case of a financial penalty, the publication shall be removed six months after payment of that penalty.

As regards the data subjects, they are instructed on how to contact the controller in the respective calls for tenders, calls for proposals and calls for expression of interest/ invitations to for experts and in their respective contracts.

<sup>8</sup> Further information on the processing of personal data to the data subjects is provided in the notification on calls for proposals (DPO 12-2013) currently under revision, to be submitted to EDPS shortly.

<sup>9</sup> OJ L 298/1 of 26.10.2012, as amended by Regulation 2015/1929 of 28.10.2015 (OJ L296 of 30.10.2015 p.1).

<sup>10</sup> Further information on the processing of personal data to the data subjects is provided in the notification on calls for expression of interest for experts (DPO 09-2013) currently under revision, to be submitted to EDPS shortly.

<sup>11</sup> OJ L 298/1 of 26.10.2012, as amended by Regulation 2015/1929 of 28.10.2015 (OJ L296 of 30.10.2015 p.1).

In accordance with the principles set out in Regulation (EC) No 45/2001 on the protection of individuals with regard to the processing of personal data, the concerned economic operator may exert its rights of access to its registered data in the EDES DB through its legal representative and to request its modification or updating. For duly justified reasons laid down in this Regulation concerning the protection of personal data, removal of the warning may be requested.

Should the economic operator want to exert such rights, its legal representative shall contact the controller who is responsible to answer any question or request concerning the registration of the legal entity in the database referred to in Article 108(1) of the Financial Regulation.

EASME data controller responds to requests from data subjects concerned to rectify inaccurate or incomplete personal data and to any other requests or questions from those data subjects. All communications and requests have to be made in writing.

Whenever it is up to the Agency to act on the request(s) of the data subjects, Articles 9 to 15 of the Decision of the Steering Committee Implementing rules relating to Regulation (EC) No 45/2001 of the European Parliament and of the Council 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 (2007/DP/01) provide the applicable provisions to treat data subjects' requests (see Annex 5).

Any modification to an existing EDES case will have to be duly justified and will be subject to DG BUDG's approval. Part of this process will then depend on DG BUDG.

Whenever the Panel is consulted for cases of exclusion and financial penalties, it shall notify the economic operator without delay of the facts in question and their preliminary classification in law, which may qualify as an exclusion situation referred to in Article 106(1) FR points (c), (d), (e) and (f) and/or may lead to the imposition of a financial penalty. The Panel shall simultaneously make the same notification to the other contracting authorities;

Before adopting any recommendation, the Panel shall give the economic operator and the notified contracting authorities the opportunity to submit observations. The economic operator and the notified contracting authorities shall have at least 15 days to submit their observations.

In the cases referred to in Article 106(1) FR points (d) and (f), the notification referred to in point (b) and the opportunity referred to in point (c) of Article 106(1) FR may be exceptionally deferred where there are compelling legitimate grounds to preserve the confidentiality of an investigation or of national judicial proceedings, until such compelling legitimate grounds to preserve the confidentiality cease to exist.

Where the request of the contracting authority is based, inter alia, on the information provided by OLAF, that Office shall cooperate with the Panel in accordance with Regulation (EU, Euratom) No 883/2013, with due regard to the respect for procedural and fundamental rights, and to the protection of whistle-blowers.

DG BUDG template notification letters are made available to the staff (see Annex 6).

#### Use of EDES by EASME:

AORs are acting directly in the system by creating (manually) the case of early detection or exclusion or financial penalty directly in the EDES DB.

#### Case assessment:

Prior to the registration by EASME in EDES, the case is assessed internally with regard to the potential breach of the legal basis, contractual terms, financial provision etc. The case should be sufficiently documented and the final assessment recorded in writing (file note, meeting minutes, e-mail exchange) and added to the file.

The relevant staff members are involved in the process on a 'need-to-know' basis.

#### Access to EDES:

The two Local Profile Managers of EASME are the EDES Organisation User Administrators (OUA) for the Agency. They can grant/modify or remove access to all other staff member. Within the Agency, two types of access rights were given to all staff having access to ABAC since they perform budget implementation tasks: Case requestor (introducing draft cases in EDES DB) or case viewer (consultation only).

The OUA can also lock and delete manually (if necessary) users who should no longer have access to the EDES information because they have left the Agency or because they are no longer ABAC users.

The OUAs also maintain a register of authorised users for the Agency. The register is updated manually twice a month.

The case requestors can initiate draft cases in EDES. After the draft case has been verified internally according to the established workflows, a designated central EDES contact person in EASME validates the draft case in EDES and submits it to the EDES BUDG TEAM for validation.

#### Consultation of EDES:

AOR is required to check the EDES DB in the framework of its ongoing award procedures: procurement, grants, prizes, selection of experts or implementation of financial instruments. The AORs consults the EDES DB before award and between the award decision and the grant/contract signature.

#### 10/ STORAGE MEDIA OF DATA

Within the Agency, the EDES requests related files are stored in the following media:

- locked cupboards and locked rooms for paper files;
- e-mails, which are marked as 'private/confidential' or through SECEM;
- electronic files, if kept, are saved in a part of the shared drive with restricted access or in personal files;
- Ares, for sending the notification to economic operators, marked "restricted".



11/ LEGAL BASIS AND LAWFULNESS OF THE PROCESSING OPERATION

- Articles [105a](#) and [108](#) of the European Parliament and Council Regulation (EU, Euratom) N° 966/2012 of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002) (Financial Regulation - FR)<sup>12</sup>, binding upon EASME as per Article 3 of the Delegation Act [C\(2013\) 9414](#) as last amended by Commission Decision [C\(2016\)3684 of 17 June 2016](#);

- Article [143 to 144](#) of the Commission Delegated Regulation (EU) N° 1268/2012 of 29 October 2012 on the rules of application of Regulation (EU, Euratom) N° 966/2012 on the financial rules applicable to the general budget of the Union (Rules of application – RAP)<sup>13</sup>, binding upon EASME as per Article 3 of the Delegation Act [C\(2013\) 9414](#) as last amended by Commission Decision [C\(2016\)3684 of 17 June 2016](#);

- [Commission Decision C\(2013\) 9414](#) of 23 December 2013, delegating powers to the “Executive Agency for Small and Medium-sized Enterprises ” with a view to performance of tasks linked to implementation of Union programmes in the field of energy, environment, climate action, competitiveness and SMEs, research and innovation and ICT, comprising, in particular, implementation of appropriations entered in the Community budget, as amended by Commission Decision [C\(2014\)4636](#) of 11 July 2014; Commission Decision [C\(2014\)6944](#) of 2 October 2014; Commission Decision [C\(2015\)651](#) of 12 February 2015; Commission Decision [C\(2016\)3684](#) of 17 June 2016;

- Standard Financial Regulation for the Executive Agencies ([Commission Regulation \(EC\) N° 1653/2004](#) of 21 September 2004 on a Standard Financial Regulation for the executive agencies pursuant to Council Regulation (EC) N° 58/2003 laying down the statute for executive agencies to be entrusted with certain tasks in the management of Community programmes);

- [Commission Decision C\(2016\)769 of 12.2.2016](#) on the Internal Rules on the implementation of the general budget of the European Union (European Commission section) for the attention of the Commission departments;

Moreover, the processing operation is lawful pursuant to Article 5(a) of Regulation (EC) 45/2001 since it is *"necessary for the performance of a task carried out in the public interest on the basis of the Treaties establishing the European Communities ...or in the legitimate exercise of official authority vested in the Community institution ..."*.

12/ THE RECIPIENTS OR CATEGORIES OF RECIPIENT TO WHOM THE DATA MIGHT BE DISCLOSED

Within EASME in the framework of the EDES, the following internal recipients can be involved on a 'need-to-know' basis:

- Director,

<sup>12</sup> as amended by Regulation 2015/1929 of 28.10.2015 (OJ L296 of 30.10.2015 p.1) .

<sup>13</sup> as amended by Commission Delegated Regulation 2015/2462 of 30.10.2015 (OJ L343 of 29.12.2015 p.1).

- Staff member having information warranting a case, in particular Financial or Project officer/advisor
- Respective Head of Sector /Head of Unit / Head of Department,
- EDES Officer,
- Legal Advisors (if judicial procedures involved),
- OLAF contact point (if applicable).

In addition, the following recipients can access data in EDES:

- Authorised persons within the Commission and of the Executive Agencies for information concerning early detection, exclusion and financial penalty;
- Authorised persons within all other Institutions, bodies, European offices and agencies for information concerning early detection, exclusion and financial penalty;
- Members of the Panel referred to in Article 108 FR;
- Authorised persons from all entities participating in the implementation of the budget in accordance with Article 59 FR only for exclusion decisions;
- European Court of Auditors, European Anti-Fraud office (OLAF) for all data that are in the EDES database for audit /investigation purposes.

All authorised persons from all entities participating in the implementation of the budget in accordance with Article 60 FR will have access to the information on exclusion decisions also for the part of the database that is not open to the public (see Article 108 (12) and 58 (1) (c) FR). Those entities are the following:

- (i) third countries or the bodies they have designated;
- (ii) international organisations and their agencies;
- (iii) public law bodies;
- (iv) bodies governed by private law with a public service mission to the extent that they provide adequate financial guarantees;
- (v) persons entrusted with the implementation of specific actions in the CFSP pursuant to Title V of the TEU, and identified in the relevant basic act.

Specific clauses will be inserted in the delegation agreements in order to fully respect article 9 of Regulation 45/2001.

The **public** is the recipient regarding cases which are made available on the public website of the EDES related to exclusion and where applicable, the financial penalty (Article 106 (16) FR). However, personal data will not be published, unless their publication is exceptionally justified, inter alia, by the seriousness of the act or its impact on the Union's financial interests. In such cases, the decision to publish the information duly takes into consideration the right to privacy and other rights provided for in Regulation (EC) No 45/2001.

For external communications, the Authorising officer will use the following disclaimer: "*You are kindly reminded to use the personal data you receive only for the purposes for which it is transmitted to you.*"

**Early detection:**

Information on early detection is registered for a maximum duration of 1 year from the moment that the relevant case is validated by the Commission. It is automatically removed at the end of this period. If, during this period, the Authorising Officer requests the Panel referred to in Article 108 FR to issue a recommendation in an exclusion case, the retention period may be extended until such time, when the Authorising Officer has taken a decision (Art 108(4) FR).

**Exclusion:**

The duration of the exclusion shall not exceed:

- a) **Five years** for cases referred to in Article 106 (1) FR point (d) (in cases of fraud, corruption, participation in criminal organisation, money laundering, offences linked to terrorist activities, child labour or other forms of trafficking in human beings);
- b) **Three years** for the cases referred to in Article 106(1) FR points (c), (e) and (f) (grave professional misconduct, significant deficiencies in complying with main obligations in the performance of a contract and irregularity);
- c) The duration, if any, set by the final judgement or the final administrative decision of a Member State;

In the cases of Article 106(1) FR points (a) and (b), the duration of the exclusion will correspond with the period in which the exclusion ground is valid (bankruptcy, insolvency or winding-up procedures, or an analogous situation, non-payment of taxes or social security contributions).

Any decision of the Authorising Officer or any recommendation of the Panel referred to in Article 108 FR on the proposed duration of the exclusion shall be made in compliance with the principle of proportionality (Article 106 (3) FR).

**Financial Penalty**

In case of a financial penalty, if the relevant information has been published, the publication shall be removed six months after payment of that penalty (Art106 (16) (4) FR).

The information on early detection and/or exclusion will be removed (automatically) as soon as the time period has elapsed if the authorising officer has not removed it before the end of its duration.

Removed information on early detection, exclusion and/or financial penalty shall be accessible for audit, investigation purposes and for the purposes of the preliminary classification in law due to the fact that the "recurrence" is a criterion to be taken into consideration for the recommendation of the panel referred to in Article 108 FR (pursuant to Article 106 (3) FR). The removed information shall not be visible for the users of the EDES database.

BLOCKING: 10 working days (all modifications are validated by DG BUDG)  
ERASURE: 10 working days (all modifications are validated by DG BUDG)

14/ HISTORICAL, STATISTICAL OR SCIENTIFIC PURPOSES

*If you store data for longer periods than mentioned above, please specify, if applicable, why the data must be kept under a form which permits identification.*

**Not applicable**

15/ PROPOSED TRANSFERS OF DATA TO THIRD COUNTRIES OR INTERNATIONAL ORGANISATIONS

**Not applicable**

16/ THE PROCESSING OPERATION PRESENTS SPECIFIC RISK WHICH JUSTIFIES PRIOR CHECKING  
*(Please describe):*

AS FORESEEN IN:

**Article 27.2.(a)**

*Processing of data relating to health and to suspected offences, offences, criminal convictions or security measures,*

**Article 27.2.(b)**

*Processing operations intended to evaluate personal aspects relating to the data subject,*

**Article 27.2.(c)**

*Processing operations allowing linkages not provided for pursuant to national or Community legislation between data processed for different purposes,*

**Article 27.2.(d)**

*Processing operations for the purpose of excluding individuals from a right, benefit or contract,*

Other (general concept in Article 27.1)

17/ COMMENTS

List of annexes:

1. Example invitation to tenders.

 Invitation to  
tender-template-April

## 2. Example call for proposals

 COSME CIP 2016 V.3  
Jun2016.pdf




## 3. Example call for expression of interest for experts

 outline-am-en.doc


## 4. EDES webpage on the Europa website includes a [privacy statement](#)

5. Decision of the Steering Committee Implementing rules relating to Regulation (EC) No 45/2001 of the European Parliament and of the Council 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 (2007/DP/01).

## 6. Notification templates available on BUDGEWEB. :

-  [Template of notification for early detection](#) (Article 108 (1) FR)
-  [Template of opening of contradictory procedure](#) (Article 108 (8) (b) and (c) FR)
-  [Template of notification for bankruptcy](#) (Articles 108 (1) and 106 (1) (a) FR)

7. Chapter XIII of the EASME Manual of Procedures – (including templates) under approval procedure.

 2016\_10\_26\_MoP  
Chapter EDES\_15\_04

## 8. EASME Note on [sensitive information](#).

PLACE AND DATE: **BRUSSELS, 23/12/2016**

DEPUTY DATA PROTECTION OFFICER: **ANTHONY BISCH**  
DATA PROTECTION OFFICER: **ELKE RIVIERE**

INSTITUTION OR BODY: **EXECUTIVE AGENCY FOR SMALL AND MEDIUM-SIZED ENTERPRISES**  
**(EASME)**

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