

# PRIVACY STATEMENT

## PROTECTION OF YOUR PERSONAL DATA

**This privacy statement provides information about the processing and the protection of your personal data**

**Processing operation:** Processing of your personal data in the context of sending communications to staff members

**Data Controller:** The FEDERATION – FFPE: Fédération de la Fonction Publique Européenne

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## **1. Introduction**

The FEDERATION is committed to protect your personal data and to respect your privacy.

We collect and further processes personal data pursuant to art.9.1.(a) of [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 (repealing Regulation (EC) No 45/2001) and [Regulation \(EU\) 2016/679](#) of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation).

This privacy statement explains the reason for the processing of your personal data, the way we collect, handle and ensure protection of all personal data provided, how that information is used and what rights you have in relation to your personal data. It also specifies the contact details of the responsible Data Controller with whom you may exercise your rights, the Data Protection Officer and the European Data Protection Supervisor.

The information in relation to processing of your personal data in the context of sending e-mails by trade union and more specifically in the management of unsubscribe lists.

## **2. Why and how do we process your personal data?**

Purpose of the processing operation: The FEDERATION collects and uses your personal data to provide all Commission colleagues with relevant information linked to their fundamental rights in relation to work and career as set in the different legal grounds quoted in next chapter, independently of their choices as these rights cannot be legally discontinued.

The emails we are sending also provide links to allow removal or un-subscription. To perform that task, we build a list of all staff members who do not want to receive any more the emails sent by our trade union through the Functional Mailbox made available by DG HR and DIGIT using MS Outlook.

This is the only list we store: that of persons willing to opt out from receiving further message from us.

In no circumstances, these personal data will be used for an automated decision-making including profiling.

## **3. On what legal ground(s) do we process your personal data**

This is to comply with Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data (GDPR) and 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 ('EUDPR').

However, there can be no question of derogating from the principles of the Charter of Fundamental Rights, which establishes, inter alia, the rights to freedom of expression and information, including the freedom to receive and impart information and ideas without interference by public authority (Article 11) and the right of workers to information and consultation within the undertaking (Article 27).

A balance is sought so that the implementation of these rules does not hinder trade union organisations' freedom of expression, given that in the hierarchy of norms the Charter of Fundamental Rights must take precedence over the recommendations of international bodies. Article 27 of Charter of Fundamental Rights of the European Union (2000/C 364/01).

Trade unions were required to have legal personality under Belgian law, hence the reference to the GDPR and not only to the EUDPR. Specifically, recital 4 of the GDPR states that the right to the protection of personal data is not an absolute right and must be viewed in relation to its function in society and be weighed against other fundamental rights, in accordance with the principle of proportionality. CCT No 5 (Belgian Collective Labour Agreement No 5) 1, which also regulates communications within undertakings;

- Freedom of association - Compilation of decisions of the Committee on Freedom of Association , Sixth edition (2018), case 1583, ILO (International Labour Organization) ([https://www.ilo.org/global/standards/subjects-covered-by-international-labour-standards/freedom-of-association/WCMS\\_632659/lang--en/index.htm](https://www.ilo.org/global/standards/subjects-covered-by-international-labour-standards/freedom-of-association/WCMS_632659/lang--en/index.htm) ).

The ILO Committee on Freedom of Association in its recommendations has insisted that the full exercise of trade union rights requires the free flow of information. On the use of company equipment, in particular e-mail, this Trade Union Freedom Committee indicated that the workers' representatives should have the facilities necessary for the exercise of their functions and that the principles of trade union freedom do not cannot be restricted in this context. The ILO says, in summary, that the employer has no right to intervene in the communication that unions make to workers.

Moreover, the practice in other European Institutions shows that trade union work is considered as work carried out in the interest of the service, so that the e-mails of the OSPs must be assimilated to work e-mails in the same way as those from the Administration.

Thus, sending emails to staff is lawful for trade unions under different legal grounds:

- *Article 6 (e) and 6 (f), article 9.2.(b) and (d) of GDPR (Regulation (EU) 2016/679)*, as our trade union is a non-profit organisation under Belgian law.

While the lists made and processed with data of colleagues wishing to be removed from emails distribution sent by an internal Functional Mailbox to email addresses contained in the address book of Outlook owned and managed by DIGIT C.6 fall under Regulation (EU) 2018/1725 <sup>2</sup>, namely Article 5.1 (a) and 5.1 (d) "the data subject has given consent to the processing of his or her personal data for one or more specific purposes;" of this Regulation.<sup>3</sup>

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<sup>1</sup> convention collective de travail n° 5 du 24 mai 1971 concernant le statut des délégations syndicales du personnel des entreprises, modifiée et complétée par les conventions collectives de travail n° 5 bis du 30 juin 1971, n° 5 ter du 21 décembre 1978 et n° 5 quater du 5 octobre 2011 <http://www.cnt-nar.be/CCT-COORD/cct-005.pdf>

<sup>2</sup> For what refers to the use of Outlook, the internal tool used by the Commission (European Institution), and according Art 14.1 (a) and (b), see record DPR-EC\_03610 ( <https://ec.europa.eu/dpo-register/detail/DPR-EC-03610> )

<sup>3</sup> The processing operations of the European Commission Email system is necessary for the performance and the support of the numerous tasks carried out by the institution as mandated by the Treaties, and more specifically article 156 of the Treaty of the Functioning of the

In addition, the legal basis in Union law for processing may also be found in:

- Article 10b of the Staff Regulations,
- Framework Agreement between the Commission and trade unions
- Code of Good Conduct to be concluded between DG HR and Trade Unions.

#### **4. Which personal data do we collect and further process?**

In order to carry out this processing operation The FEDERATION collects the following categories of personal data:

- Name; surname
- E-mail address
- Directorate-General

We have obtained your personal data from the colleagues themselves via the use of an “unsubscribe” button set in the emails sent by our trade union. The origin of that information is derived from the Commission address book and the consent to store it is given by the colleague willing to unsubscribe.

#### **5. How long do we keep your personal data?**

The FEDERATION only keeps your personal data in the list of removed email addresses for the time necessary to fulfil the purpose of collection, namely for a duration of 1 year . After 1 year, the lists are reinitialised and emails sent by our trade union are sent again to all colleagues, who could reiterate their refusal to receive emails by unsubscribing again if they wish it.

It is important to request regular confirmation from the colleague: many of those who opt to unsubscribe at a particular moment in time may well be willing to get again information on their future for instance in case of staff regulation renegotiations.

#### **6. How do we protect and safeguard your personal data?**

All personal data in electronic format (e-mails, documents, databases, uploaded batches of data, etc.) are stored on the servers of the European Commission. All processing operations are carried out pursuant to the [Commission Decision \(EU, Euratom\) 2017/46](#) of 10 January 2017 on the security of communication and information systems in the European Commission.

In order to protect your personal data, the Commission has put in place a number of technical and organisational measures in place<sup>4</sup>. Technical measures include appropriate actions to address online security, risk of data loss, alteration of data or unauthorised access, taking into consideration the risk presented by the processing and the nature of the personal data being processed. Organisational measures include restricting access to the personal data solely to authorised persons with a legitimate need to know for the purposes of this processing operation.

#### **7. Who has access to your personal data and to whom is it disclosed?**

Access to your personal data is provided to the trade union staff responsible for carrying out this processing operation and to authorised staff according to the “need to know” principle. Such staff abide by statutory, and when required, additional confidentiality agreements.

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European Union (TFEU) in regards to communication made by trade unions (<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:12012E/TXT&from=FR> ).

<sup>4</sup> For more information, see processing operation covered by DPR-EC-2886

## **8. What are your rights and how can you exercise them?**

According to the process described in chapter 4 above, you have specific rights as a 'data subject' under Chapter III (Articles 14-25) of Regulation (EU) 2018/1725<sup>5</sup>, in particular the right to access, your personal data and to rectify them in case your personal data are inaccurate or incomplete. You have the right to erase your personal data, to restrict the processing of your personal data, to object to the processing, and the right to data portability.

You have the right to object to the processing of your personal data, which is lawfully carried out pursuant to Article 5(1)(d) on grounds relating to your particular situation.

You can exercise your rights by contacting the data controller, or in case of conflict the Data Protection Officer. If necessary, you can also address the European Data Protection Supervisor. Their contact information is given under Heading 9 below.

Remark : if your data set in the address book of Outlook are not correct to your situation, post or identity, you might first refer to information set in chapter 7 of record DPR-EC-03610 as mentioned in footnote 2 and consult the relevant privacy statement to correct your data.

## **9. Contact information**

### **- The Data Controller**

If you would like to exercise your rights under Regulation (EU) 2018/1725, or if you have comments, questions or concerns, or if you would like to submit a complaint regarding the collection and use of your personal data, please feel free to contact the Data Controller or The FEDERATION : [OSP-FFPE-BXL@ec.europa.eu](mailto:OSP-FFPE-BXL@ec.europa.eu).

### **- The Data Protection Officer (DPO) of the Commission**

You may contact the Data Protection Officer ([DATA-PROTECTION-OFFICER@ec.europa.eu](mailto:DATA-PROTECTION-OFFICER@ec.europa.eu)) with regard to issues related to the processing of your personal data under Regulation (EU) 2018/1725.<sup>6</sup>

### **- The European Data Protection Supervisor (EDPS)**

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.

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<sup>5</sup> For emails sent by external mailboxes belonging to trade union and sent to colleagues registered to external newsletters, Chapter III (Articles 12-23) of Regulation (EU) 2016/679 applies.

<sup>6</sup> For complaints related to external emails as set in footnote 5 and to the application of GDPR (Regulation (EU) 2016/679), only the APD (Autorité Belge de la Protection des Données) is competent ( <https://www.dataprotectionauthority.be/citizen> )