

## Data Protection Notice

### Board of Appeal

(March 2019)

This Data Protection Notice has been written in order to explain the policy of the Agency for the Cooperation of Energy Regulators (“**Agency**”) regarding your privacy, as well as how your personal information will be handled in the context of proceedings carried out before the Agency’s Board of Appeal.

### Who is responsible for my personal information?

The Agency is the data controller regarding all personal data processing carried out in the context of proceedings carried out before the Agency’s Board of Appeal.

To get in touch with the Agency’s Data Protection Officer, please contact: [dpo@acer.europa.eu](mailto:dpo@acer.europa.eu).

### What personal information of mine is being collected?

When you are involved in a proceeding taking place before the Agency’s Board of Appeal, the Agency will collect and process information related to you (as an individual), which allows you to be identified either by itself, or together with other information which the Agency has access to.

The Agency may also be able to collect and process information regarding other persons in this same manner, if you choose to provide it to the Agency.

This information may be classified as “**Personal Data**”.

Personal Data which may be processed by the Agency in this context are as follows:

(a) **Data related to appellants, interveners, witnesses, experts and other persons implicated in proceedings**

The Agency may collect information on individuals, or individuals acting on behalf of organisations, which are involved in proceedings taking place before the Board of Appeal. These may include appellants, interveners, witnesses or experts, as well as other individuals who are named or implicated in these proceedings.

Personal Data which may be collected in this manner include those individuals’ names, addresses and e-mail addresses, as well as any other Personal Data which may be disclosed in the course of the proceedings, as mentioned in the statements and documentation presented by the appellants, the Agency or any other persons involved in the proceedings, where applicable.

(b) **Data related to members and alternates of the Board of Appeal**

The Agency may collect information on the individuals which make up the Board of Appeal, including members and alternates. Personal Data which may be collected in this manner include those individuals’ names, addresses and e-mail addresses.

Also included here are Personal Data included in declarations of interest provided by members and alternates of the Board of Appeal, under Art. 4 of the Rules of Procedure set out in Decision BoA No 1-2011 laying down the rules of organisation and procedure of the Board of Appeal of the Agency for the Cooperation of Energy Regulators.

**(c) Special categories of Personal Data / Judicial Data**

The Agency will not, as a rule, collect or process special categories of Personal Data, such as information revealing your racial or ethnic origin, political opinions, religious or philosophical beliefs, trade union membership, genetic or biometric data related to you or data concerning your health, sex life or sexual orientation, or to judicial data (i.e., data relating to criminal convictions and offences), in the context of your involvement in proceedings before the Agency's Board of Appeal. However, exceptions may exist where the proceedings at hand refer specifically to an incident which strictly cannot be discussed without reference to such categories of Personal Data – in particular where the facts of the case or the documents presented require disclosure of those Personal Data.

The Agency will only process any special categories of Personal Data or judicial data where this is legally admissible under Regulation (EU) 2018/1725 of 23 October 2018 (the "**Regulation**") and/or other applicable laws, and in any case only where this is deemed adequate, relevant and necessary in the context of the processing purposes provided in this Data Protection Notice.

**(d) Other persons' Personal Data**

In any situation where you decide to share Personal Data related to other persons, you may be considered as an independent data controller regarding those Personal Data – meaning you will be held responsible for that decision. In turn, this means, among other things, that you may be held liable for any complaints, claims or demands for compensation which are brought against the Agency, due to the fact that you decided to share Personal data related to other persons with the Agency.

As such, you must make sure that you are legally entitled to provide the Agency with this information (e.g., because you have a legitimate interest in doing so, because you have the data subjects' consent, because a legal obligation to inform the Agency exists, because this information is provided in the performance of a task in the public interest, etc.).

## Why is the Agency using these Personal Data?

The Agency intends to use this Personal Data for the following purposes:

**(a) Management of Proceedings**

To allow the Agency's Board of Appeal to manage appeal proceedings initiated, including to receive and assess notices of appeal, statements of grounds and of defence, intervention applications and other procedural documents, requests and evidence, to prescribe procedural measures, make interim and final decisions and, in general, allow for the proceedings to take place in accordance with the Rules of Procedure set out in Decision BoA No 1-2011 laying down the rules of organisation

and procedure of the Board of Appeal of the Agency for the Cooperation of Energy Regulators.

This includes also purposes of internal communication between members and alternates of the Board of Appeal, as needed to ensure the management of such proceedings.

- It is mandatory to provide your Personal Data to the Agency for these purposes, where you wish to take part in appeal proceedings as an appellant, intervener, witness or expert. Where you fail to do so, you may not be able to participate in such proceedings.

**(b) Compliance**

To comply with Union or Member State laws which impose upon the Agency the collection and/or further processing of certain kinds of Personal Data. In particular, this includes the need to process declarations of interests related to members and alternates of the Board of Appeal under Art. 4 of the Rules of Procedure set out in Decision BoA No 1-2011 laying down the rules of organisation and procedure of the Board of Appeal of the Agency for the Cooperation of Energy Regulators.

- When you provide any Personal Data to the Agency, the Agency must process it in accordance with the applicable law, which may include retaining and reporting your Personal Data to official authorities for compliance with its legal obligations.

All Personal Data processed by the Agency may further be included in periodic backups carried out to ensure the availability of information stored on the Agency's IT systems, and may further be processed to ensure the Agency's compliance with its legal obligations regarding the processing of Personal Data (e.g., related to management of personal data breaches).

## Why can the Agency use these Personal Data?

The legal bases which the Agency relies on to process this Personal Data, according to the purposes identified above, are as follows:

**(a) Management of Proceedings**

Processing for this purpose is necessary in order to allow the Agency's Board of Appeal to function and carry out its tasks under Arts. 18 and 19 of Regulation (EC) No 713/2009 of the European Parliament and of the Council, of 13 July 2009, as well as the Rules of Procedure set out in Decision BoA No 1-2011 laying down the rules of organisation and procedure of the Board of Appeal of the Agency for the Cooperation of Energy Regulators.

**(b) Compliance**

Processing for this purpose is necessary for the Agency to comply with its legal obligations.

The inclusion of all Personal Data stored by the Agency in its IT systems in periodic backups is deemed necessary in order to ensure the proper management and functioning of the Agency and, as such, necessary in order to perform a task in the public interest.

## Who can see your Personal Data, and who will they be shared with?

Your Personal Data may be shared with the following list of persons / entities ("**Recipients**"):

- Companies, entities or professional firms engaged by the Agency, including other Union institutions or bodies, in order to assist in the management of appeal proceedings and associated tasks, which typically act as data processors on behalf of the Agency;
- Other participants within appeal proceedings – in particular, all case documents will be served to appellants and the Agency, and all non-confidential case documents will also be served to interveners;
- Persons authorised by the Agency to process Personal Data needed to carry out activities strictly related to the purposes described above, who have undertaken an obligation of confidentiality or are subject to an appropriate legal obligation of confidentiality (e.g., staff members of the Agency);
- Public entities, bodies or authorities, including other Union institutions or bodies, to which your Personal Data may be disclosed, in accordance with Union or Member State law, or with binding orders from those entities, bodies or authorities.

The Agency will not transfer your Personal Data outside of the EU.

Please note that Personal Data collected in the context of appeal proceedings may be made available within case documents which are published on the Agency's website, for transparency and compliance purposes. In particular, these include the announcements of appeals (where interested parties are informed of an appeal, should they wish to act as interveners in the proceedings), hearing schedules, certain interim decisions and the final decisions taken by the Board of Appeal.

## How long do we keep your data?

### (a) **Management of Proceedings**

Personal Data processed for **Management of Proceedings** will be kept by the Agency for as long as the appeal proceedings before the Board of Appeal remain active. These Personal Data will then be retained further for as long as the decisions made by the Board of Appeal regarding a given proceeding remain appealable to the Court of Justice of the European Union; if appealed, case documents including Personal Data will be kept further for as long as they are retained by the Court of Justice of the European Union.

### (b) **Compliance**

Personal Data processed for **Compliance** will be kept by the Agency for the period required by the specific legal obligation or by the applicable Union or Member State law. In particular, Personal Data related to members and alternates of the Board of Appeal which are processed for this purpose will be retained until the end of their mandate (at most, for 5 years).

Please note that, in any case, the Agency may continue to store Personal Data for a longer period, as may be necessary for internal auditing and security purposes (including within periodic backups carried out) and, in general, to protect the Agency's interests related to potential liability related to this processing.

For more information on the applicable retention periods, please contact the Agency's DPO, at: [dpo@acer.europa.eu](mailto:dpo@acer.europa.eu).

## What are my rights? How can I exercise them?

As a data subject, you are entitled, in general, to exercise the following rights before the Agency:

- Access your Personal Data being processed by the Agency (and/or a copy of those Personal Data), as well as information on the processing of your Personal Data;
- Correct or update your Personal Data being processed by the Agency, where it may be inaccurate or incomplete;
- Request the erasure of your Personal Data being processed by the Agency, where you feel that the processing is unnecessary or otherwise unlawful;
- Request the blocking of your Personal Data, where you feel that the Personal Data processed is inaccurate, unnecessary or unlawfully processed, or where you have objected to the processing;
- Object to the processing of your Personal Data, based on relevant grounds related to your particular situation, which you believe must prevent the Agency from processing your Personal Data for a given purpose;
- Withdraw your consent to the processing of your Personal Data (for **Photos / Presentations / Web-streaming**);
- Exercise your right to portability: the right to obtain a copy of your Personal Data provided to the Agency, in a structured, commonly-used and machine-readable format, as well as the transmission of that Personal Data to another data controller.

To exercise any of the abovementioned rights, you may send a written request to the Agency's DPO, at: [dpo@acer.europa.eu](mailto:dpo@acer.europa.eu).

Please note that, by virtue of Art. 25 of the Regulation, one or several of these rights may be restricted for a temporary period of time, *inter alia* on the grounds of the protection of the prevention, investigation, detection and prosecution of criminal offences/breaches of ethics for regulated professions, the protection of judicial independence and judicial proceedings and/or the safeguarding of the enforcement of civil law claims, as applicable. Any such restriction will be limited in time, proportionate and respect the essence of the above-mentioned rights. It will be lifted as soon as the circumstances justifying the restriction are no longer applicable. If your right to

information has been restricted, you will receive a more specific data protection notice when this period has passed.

As a general rule, if such an exemption or restriction is found to be applicable, you will be informed of the Agency's main reasoning for this, unless this information would cancel the effect of the restriction as such.

In any case, please note that, as a data subject, you are entitled to file a complaint with the European Data Protection Supervisor, if you believe that the processing of your Personal Data carried out by the Agency is unlawful, or if you wish to contest the scope of a restriction. You will suffer no prejudice on account of any such complaints lodged.