

## (3) C. Data Protection Notice

### Interactions with Stakeholders

(11 December 2018)

This Data Protection Notice is provided to you in order to explain the policy of the Agency for the Cooperation of Energy Regulators (“the **Agency**”) regarding your privacy, as well as how your personal information is handled in the context of the Agency’s mandated tasks, involving coordination, communication, management and monitoring activities in relation to national regulatory authorities, energy market participants, organised marketplaces and other relevant stakeholders (collectively, “**Stakeholders**”).

#### Who is responsible for my personal information?

The Agency is the data controller regarding all personal data processing carried out in the context of managing, communicating and general coordination in relation to Stakeholders.

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?

In order to allow for the effective coordination, communication and management of the relevant activities between the Agency and Stakeholders, the Agency collects and processes information related to you (as an individual Stakeholder or contact person / representative of a Stakeholder) which, either by itself or in combination with other information to which the Agency may have access, allows you to be identified.

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 the context of interactions with Stakeholders are as follows:

(a) **Names, contact details and other personal identifying information**

During interactions with the Agency, you may be asked to provide your name and professional contact details (e.g., telephone number, e-mail address), as an individual Stakeholder or a contact person / representative of a Stakeholder. In certain cases, you may also be asked to provide additional information, such as your gender, job title, postal address, fax number and country of origin.

(b) **Curriculum Vitae and Declarations of Interest**

Where you assume a role as a Chairperson, Vice-Chairperson or Task Force Convenor within a working group set up by the Agency, you may be asked to provide to the Agency Personal Data related to yourself, including information contained within your submitted CV and Declaration of Interests (e.g., related to professional experience, education, training, publications, interests held by you which may be considered as potentially affecting your independence).

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

Special categories of Personal Data include 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. Additionally, for the purposes of this Data Protection Notice, Personal Data relating to offences, criminal convictions or security measures will also be considered as special categories of Personal Data.

In some of the interactions which you may have with the Agency – such as exchanges of e-mails, or filling out of forms provided by the Agency which include free text fields – you may (inadvertently or not) provide special categories of Personal Data to the Agency. The Agency expects you not to disclose any such special categories of Personal Data to the Agency, unless you believe this to be strictly necessary for the purposes of your interaction with the Agency. In this case, the Agency asks that you provide your explicit consent to the processing of any special categories of Personal Data which you include (e.g., by stating “*I explicitly consent to the processing of the special categories of personal data which I hereby communicate to the Agency.*”) in your communication to the Agency (or within the documents provided).

The Agency only processes any special categories of Personal Data you submit where this explicit consent is given, or where another legal basis for processing can be relied on, 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**

Similarly, in some of the interactions which you may have with the Agency, you may (inadvertently or not) provide Personal Data related to other persons.

In any situation where you decide to share Personal Data related to other persons, you will 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 the consent of the person(s) to whom this information relates, 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 uses the Personal Data mentioned above for one or more of the following purposes:

**(a) Stakeholder Communication**

To ensure effective communication between the Agency and relevant Stakeholders, and between Stakeholders (including, where relevant, by means of contact persons / representatives of those Stakeholders), by allowing for the exchange of information on matters related to the performance of the Agency's public tasks, such as the monitoring of investment requests and cross-border cost allocation decisions, gas regional investment plans and implementation and (policy) matters related to Regulation (EU) no 1227/2011 of the European Parliament and of the Council, of 25 October 2011 ("**REMIT**"), among others (see below, [Why can the Agency use these Personal Data?](#), for further information on the different legal bases which may be relied on for this processing).

- Where you, or the entity you are acting for, is under a legal obligation to exchange communication with the Agency, or where the Agency is under a legal obligation to exchange communication with you or the entity you are acting for, it is mandatory to provide your Personal Data to the Agency; failure to do so will prevent the Agency from complying with its mandated tasks, and/or may constitute a breach of your legal obligations under applicable national and/or EU law.
- Where neither you, or the entity you are acting for, nor the Agency is under a legal obligation to exchange communication, it is not mandatory to provide your Personal Data to the Agency; failure to do so may however prevent your input to be considered by the Agency.

**(b) Stakeholder Input**

To send, obtain and manage any questionnaire and request for feedback / information / opinions to and from Stakeholders, including by means of public consultations, as well as any notifications sent to the Agency, and to collect and follow-up on any input provided.

- Where you, or the entity you are acting for, is under a legal obligation to provide the input requested by the Agency, it is mandatory to provide your Personal Data to the Agency; failure to do so will prevent the Agency from complying with its mandated tasks, and may constitute a breach of your legal obligations under applicable national and/or EU law.
- Where you, or the entity you are acting for, is not under a legal obligation to provide the input sought by the Agency, it is not mandatory to provide your Personal Data to the Agency; failure to do so may however prevent your input to be considered by the Agency.

**(c) Event Management**

To organize and coordinate physical or virtual meetings, working groups, task forces, roundtables or other events hosted or supported by the Agency, requiring the participation of Stakeholders, in particular to communicate upcoming events to relevant Stakeholders, allow registration for the events, share participant lists with

other participants, directly or online, and for general event management purposes, including management of documents produced at events (including, in particular, minutes of any meetings held).

This includes in particular the organization and coordination for the Agency's Working Groups, Task Forces (e.g. Electricity Working Group and Task Forces, Gas Working Group and Task Forces) and/or similar structures (e.g. REMIT Coordination group).

- It is not mandatory to provide your Personal Data to the Agency for these purposes; failure to do so may (depending on the extent to which you do not agree to provide Personal Data to the Agency) prevent your participation in any events, or prevent the Agency from disclosing your participation to other participants.

**(d) Registration and Publication of CVs and Declarations**

To establish and operate a register of declarations of interests for Working Group Chairpersons, Vice-Chairpersons and Task Force Convenors, and to publish these declarations (along with CVs) on the Agency's website, for transparency purposes.

- It is mandatory for Working Group Chairpersons, Vice-Chairpersons and Task Force Convenors, to share Personal Data with the Agency for this purpose, as any failure to do so would be contrary to legal obligations imposed upon the Agency and those individuals.

**(e) Compliance**

For compliance with laws which impose, directly or indirectly, upon the Agency the collection and/or further processing of certain kinds of Personal Data.

- When you provide any Personal Data to the Agency, the Agency must process them 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 appropriate handling of security incidents related to those systems, as well as 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 basis which the Agency relies on to process these Personal Data, according to the purposes identified above, is the need for this processing to carry out the tasks mandated to the Agency under Union law, including (but not limited to) under the following acts:

- Regulation (EC) no. 713/2009 of the European Parliament and of the Council of 13 July 2009 establishing the Agency;
- Regulation (EC) no. 714/2009 of the European Parliament and of the Council of 13 July 2009 on conditions for access to the network for cross-border exchanges in electricity, as well as the network codes and guidelines under Regulation (EC) no. 714/2009;
- Regulation (EC) no. 715/2009 of the European Parliament and of the Council of 13 July 2009 on conditions for access to the natural gas transmission networks;
- Directive 2009/72/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in electricity;
- Directive 2009/73/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in natural gas;
- REMIT, as well as obligations arising from Commission Implementing Regulation (EU) no. 1348/2014, of 17 December 2014; Regulation (EU) no. 347/2013 of the European Parliament and of the Council of 17 April 2013 on guidelines for trans-European energy infrastructure;
- Commission Regulation (EU) no. 543/2013 of 14 June 2013 on submission and publication of data in electricity markets;
- Regulation (EU) 2017/1938 of the European Parliament and of the Council of 25 October 2017 concerning measures to safeguard the security of gas supply.

Processing of Personal Data for the mentioned purposes is, as such, necessary to carry out tasks in the public interest, or otherwise to legitimately exercise official authority vested in the Agency by the mentioned Union legal instruments.

The inclusion of all Personal Data stored by the Agency in its IT systems in periodic backups, as well as all processing carried out to ensure the appropriate handling of security incidents related to those systems, is deemed necessary in order to ensure the proper management and functioning of the Agency and as such, necessary to carry out a task in the public interest.

The processing of Personal Data for **Compliance** purposes is necessary for the Agency to comply with its legal obligations.

## 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 provide services related to the management and maintenance of systems used to exchange information with or request information from Stakeholders, the organisation of events, and other tasks needed to ensure the purposes described in this Data Protection Notice are met, including technical maintenance / assistance, as well as operational security of systems used to store, transmit or otherwise process Personal Data for those purposes, which typically act as processors on behalf of the Agency. These entities, when engaged by the Agency, are bound to confidentiality regarding any Personal Data they are given access to, and have access to

Personal Data only to the extent strictly required for them to provide those services;

- 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 on the basis of binding orders from those entities, bodies or authorities, or otherwise as necessary to allow the fulfilment of the Agency's mandated tasks, the exchange of communication with relevant Stakeholders or the organisation of jointly-hosted events (e.g., national regulatory authorities, the European Network of Transmission System Operators for Electricity, the European Network of Transmission System Operators for Gas).
- Other Stakeholders / persons which may be participating in a given event, by means of attendance lists.

Some documents containing Personal Data, such as Declarations of Interests and CVs for Working Group members and alternates, minutes of meetings, decisions and opinions produced during events, may be published on the Agency's website, thereby becoming accessible to the general public.

Generally, the Agency will not transfer your Personal Data outside of the EU. However, under specific and limited circumstances, your Personal Data may be transferred to non-EU entities.

### **(Read more)**

Your Personal Data may be transferred to non-EU entities in order to further the purposes described in this Data Protection Notice (e.g., allow the exchange of information with non-EU national regulatory authorities, also when participating in working groups or similar initiatives / events).

- The legal grounds relied on for this depends on the country where the recipient is located (e.g., because the country is covered by an adequacy decision from the European Commission) and the recipient itself (due to contracts containing standard data protection clauses as approved by the European Commission, or legally binding and enforceable instruments entered into between the Agency and those recipients).
- Where none of the above applies, given the limited and non-repetitive nature of these transfers, and the fact that such transfers are only carried out for reasons of public interest, the Agency may rely on legally applicable derogations, subject to informing the European Data Protection Supervisory where this occurs.

For more information on transfers of Personal Data carried out by the Agency for these purposes, please contact the Agency's Data Protection Officer, at: [dpo@acer.europa.eu](mailto:dpo@acer.europa.eu).

## How long do we keep your data?

Contact information for Stakeholders or their contact persons / representatives is kept by the Agency in regularly updated mailing lists, which are changed whenever the Agency becomes aware or is informed of the inaccuracy of the Personal Data reflected in those lists (with Personal Data which is no longer relevant or accurate being deleted). The lists themselves are kept for as long as needed to organise events and maintain appropriate communication channels with Stakeholders (for **Stakeholder Communication, Stakeholder Input** and **Event Management**).

Personal Data given to any questionnaires/consultations, related to **Stakeholder Input**, are retained for as long as follow-up actions to the questionnaires/consultations are necessary with regard to the purpose(s) of the processing of Personal Data, as well as for the consultation and its related management. Reports produced containing Personal Data are further archived according to the Agency's legal framework.

Where **Stakeholder Input** is required in order for the Agency to take certain actions, such as (but not limited to) decisions, opinions, recommendations and reports, Personal Data collected are retained for 5 years after the date of adoption of the respective deliverable and, for those deliverable which can be appealed, for 5 years from when the deliverable has become final (following the termination of any related legal proceedings).

Personal Data processed for **Registration and Publication of CVs and Declarations** are retained for 5 years after the discharge for the budgetary year to which the declaration relates.

Personal Data processed for **Compliance** are kept by the Agency for the period required by the specific legal obligation or by the applicable Union or Member State law.

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 Data Protection Officer, 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 obtain 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.

You may also have a right to **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. This right may apply whenever the Agency relies on the need to perform a task in the public interest as the legal basis for a given processing purpose, e.g., **Stakeholder Input, Event Management** and others (see above – [Why can the Agency collect these Personal Data?](#)).

To exercise any of the abovementioned rights, you may send a written request to the Agency by email to [info@acer.europa.eu](mailto:info@acer.europa.eu) or [dpo@acer.europa.eu](mailto:dpo@acer.europa.eu).

For matters related to physical or virtual meetings, coordination groups, workshops, roundtables or other events hosted or organised by the Agency, **you may contact the indicated point of contact for the event in question (as communicated in supporting information / documents for the event)**. This will either be a member of the Agency's staff or the Head of the Agency department responsible for the event. You can also reach out to the individuals acting as Chairs for the event (which may be representatives of national regulatory authorities).

Please note that the above rights may not apply, or may not apply in full, as there may be applicable legal exemptions or restrictions to those rights. This will be assessed by the Agency on a case-by-case basis; if such an exemption or restriction is found to be applicable, you will be informed of the Agency's main reasoning for this.

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. You will suffer no prejudice on account of any such complaints lodged.