EUROPEAN UNION AGENCY FOR FUNDAMENTAL RIGHTS

# RECORD OF PROCESSING ACTIVITY ACCORDING TO ARTICLE 31 REGULATION 2018/1725[1] NOTIFICATION TO THE DATA PROTECTION OFFICER

**NAME OF PROCESSING OPERATION[2]: FRA project on Assessing high-risk artificial intelligence: selected use-cases – interviews and focus groups**

| Reference number: DPR-2024-213 |
|---|
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## Part 1 (Publicly available)

| 1) Controller(s)[3] of data processing operation (Article 31.1(a)) |
|---|
| Controller: European Union Agency for Fundamental Rights (FRA) |
| Schwarzenbergplatz 11, A-1040 Vienna, Austria |
| Telephone: +43 1 580 30 – 0 |
| Email: contact@fra.europa.eu |
| Organisational unit **responsible**[4] for the processing activity: |
| Contact details: AI-Project@fra.europa.eu |
| Data Protection Officer (DPO): dpo@fra.europa.eu |

| 2) Who is actually conducting the processing? (Article 31.1(a))[5] | |
|---|---|
| The data is processed by the FRA itself | ☒ |
| The data is processed also by a third party (contractor) | ☒ |

1 https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32018R1725

2 **Personal data** is any information relating to an identified or identifiable natural person, i.e. someone who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity. This information may, for example, be the name, date of birth, a telephone number, biometric data, medical data, a picture, professional details, etc.
**Processing** means any operation or set of operations which is performed on personal data, whether or not by automatic means, such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction.

3 In case of more than one controller (e.g. joint FRA research), all controllers need to be listed here

4 This is the unit that decides that the processing takes place and why.

5 Is the FRA itself conducting the processing? Or has a provider been contracted?

Within the meaning of the Regulation 2018/1725, FRA is the controller and processor of the personal data, while Ecorys is a processor. The processor/contractor was selected by FRA following a public procurement procedure.

Contact point at external third party:

**ECORYS EUROPE EEIG-GEIE**

**Rue Belliard 12, B-1040 Brussels, Belgium**

**rodo@ecorys.com**

Use case researchers: The contractor (processor) has entered into sub-contracting agreements with several entities for carrying out interviews and focus group discussions in Spain, Germany, Ireland and Sweden, which will act as sub-processors: Universidad Nacional de Educación a Distancia (UNED), Trusted AI GmbH, H2 Learning. Sub-processing will also be conducted by Microsoft in cases of interviews and focus group discussions conducted online. The contact point for those sub-processors is: rodo@ecorys.com

3) Purpose of the processing (Article 31.1(b))

*Why are the personal data being processed? Please provide a very concise description of what you intend to achieve with the processing operation. Specify the rationale and underlying reason for the processing and describe the individual steps used for the processing. If you do this on a specific legal basis, mention it as well (e.g. staff regulations for selection procedures).*

The purpose of the processing of the personal data is to collect information and data for the purpose of the FRA research project on 'Assessing high-risk artificial intelligence: selected use-cases' by conducting interviews and focus groups.

The project aims to provide research evidence on the understanding and needs of providers and users of AI in relation to the fundamental rights assessment of high-risk AI systems. The objective is not to come up with a new fundamental rights risk assessment model for AI, but rather to collect input on how such assessments could be meaningfully done in practice. The research should provide input based on an exploration of selected high-risk AI use cases in the areas of education, employment, access to public services benefits, law enforcement and migration as well as by covering the potential use of large language models for service provision. Ultimately, findings of the research will be issued in a FRA publication.

To obtain an understanding of the above, interviews with providers, users/deployers and experts as well as three focus groups with rights-holders are needed. The interviews will cover a range of topics including questions on

information and data needed for fundamental rights impact assessments as well as the experiences and practices of assessing fundamental rights by providers and users of high-risk AI. The focus groups will collect the views of relevant rights-holders on selected use cases.

FRA and ECORYS will collect and process publicly available contact details of participants in the interviews and in the focus groups by searching online for their name, employer's name, function title, telephone number, and email address. Such data will also be collected and processed if participants are approached through professional networks (relationships) of the research team, or networks of the employers and organizations selected to participate in the study. These personal data will be used to invite the respondents to these consultation activities and to communicate over the course of the project.

The interviews will be conducted face-to-face. In case of difficulties with organising interviews in-person, they may be conducted via a video call. The platform used to this end will be Microsoft Teams. The focus groups will be conducted online via Microsoft Teams. For accuracy and note-taking purposes, and only with the interviewee's consent, interviews will be audio-recorded (or in case of a video-call, being video-recorded). If the interview is conducted online, it will be recorded using Microsoft Teams and stored on an Ecorys and/or FRA server. If it is conducted in person, it will be recorded on a standalone device, such as a mobile phone. If the recording is made using a mobile phone device, the interviewer will make sure that the data is only stored locally. After the interview, the interviewer will upload the recording to an Ecorys and/or FRA server and delete it from the standalone device.

Interviews will be summarised in pre-specified interview summary templates. Interview summaries will be pseudonymised. Therefore, it may be possible that individuals are identifiable based on their job descriptions and affiliations in the summaries.

The interview summaries and the data related to the interviewee will be shared with FRA separately. The recordings may be shared with FRA for quality control purposes. For more details see Section 8.

FRA will also conduct some interviews under the same modalities as the contractor. In any case, data subjects will be informed in the Data Protection Notice and Consent Form about who will carry out the interview. The interviews and focus groups are part of wider research activities, which include the analysis of the data collected and the publication of the findings in a FRA report.

4) Description of the categories of data subjects (Article 31.1(c))

*Whose personal data are being processed?*

FRA staff ☐

Non-FRA staff (persons involved in developing/deploying the AI systems that fall under the studied use cases, experts and other stakeholders relevant to the use cases as well as rights-holders) ☒

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## 5) Categories of personal data processed (Article 31.1(c))

*Please tick all that apply and give details where appropriate*

(a) **General personal data** **(add or delete as appropriate – the data in the brackets are only examples)**

| | |
|---|---|
| Personal details (name, surname) | ☒ |
| Contact details (email address, mobile number) | ☒ |
| Employment details (position/function/title, name and type of the employer/organisation, address of the employer/organisation, opinions) | ☒ |
| Financial details (e.g. financial identification form, bank account information) | ☐ |
| Family, lifestyle and social circumstances (if disclosed by participants in focus groups) | ☒ |
| Goods or services provided | ☐ |

Other: Speech and image (audio and video recordings of interviews and focus group discussions). In case of interviews and focus group discussions conducted online via Microsoft Teams, device data may be collected (IP address, cookies, device metadata).

(b) **Special categories of personal data** (Article 10)
The personal data collected during the interviews and focus groups (both in the responses of participants and through the image showed during online interviews) might incidentally reveal:

| | |
|---|---|
| Racial or ethnic origin | ☒ |
| Political opinions | ☒ |
| Religious or philosophical beliefs | ☒ |
| Trade union membership | ☐ |
| Genetic, biometric or data concerning health | ☒ |
| Information regarding an individual's sex life or sexual orientation | ☒ |
| N/A | ☐ |

(c) **Personal data relating to criminal convictions and offences** (Article 11)

Criminal record (or similar, e.g. declaration of good conduct) ☐

N/A ☒

## 6) Recipient(s) of the data (Article 31.1 (d))

*Recipients are all parties who have access to the personal data. Who will have access to the data **within** FRA? Who will have access to the data **outside** FRA? No need to mention entities that may have access in the course of a particular investigation (e.g. OLAF, EO, EDPS).*

Designated **FRA** staff members ☒
FRA project manager and FRA project team members within the Justice Digital and Migration Unit of FRA.

Recipients **outside** FRA: ☒
Selected Staff members of ECORYS (europe@ecorys.com)
Selected staff of the sub-processors mentioned in section 2.

## 7) Transfers to third countries or international organisations (Article 31.1 (e))[6]

*If the personal data are transferred outside the European Economic Area or to international organisations, this needs to be specifically mentioned, since it increases the risks of the processing operation.*

***Transfer outside of the EU or EEA***

Yes ☒

No ☐

**If yes, specify to which country**: United Kingdom, US

The data collected by Ecorys for this project will be stored on Ecorys' cloud server located in Microsoft data centres in the United Kingdom and transferred based on the EU/UK adequacy decision which guarantees an adequate level of protection.

Moreover, as Microsoft is a US-based company and is subject to US Surveillance laws, a transfer of limited personal data cannot be completely discarded. Such transfers, if any, fall under the adequacy decision for the EU-US Data Privacy Framework adopted by the European Commission on 10 July 2023.

[6] **Processor** in a third country using standard contractual clauses, a third-country public authority you cooperate with based on a treaty. If needed, consult your DPO for more information on how to ensure safeguards.

***Transfer to international organisation(s)***

Yes ☐

No ☒

If yes specify to which organisation:

***Legal base for the data transfer***

☒ Transfer on the basis of the European Commission's EU-UK adequacy decision (Article 47) and EU-US Data Privacy Framework.

☐ Transfer subject to appropriate safeguards (Article 48.2 and .3), specify:

a) ☐ A legally binding and enforceable instrument between public authorities or bodies.
Standard data protection clauses, adopted by
b) ☐ the Commission, or
c) ☐ the European Data Protection Supervisor and approved by the Commission, pursuant to the examination procedure referred to in Article 96(2) .
d) ☐Binding corporate rules, ☐ Codes of conduct , ☐ Certification mechanism
pursuant to points (b), (e) and (f) of Article 46(2) of Regulation (EU) 2016/679, where the
processor is not a Union institution or body.

Subject to the authorisation from the European Data Protection Supervisor:
☐ Contractual clauses between the controller or processor and the controller, processor
or the recipient of the personal data in the third country or international organisation.

☐ Administrative arrangements between public authorities or bodies which include
enforceable and effective data subject rights.

☐ Transfer based on an international agreement (Article 49), specify:

***Derogations for specific situations (Article 50.1 (a) –(g))***

☒ N /A
☐ Yes, derogation(s) for specific situations in accordance with article 50.1 (a) –(g) apply
In the absence of an adequacy decision, or of appropriate safeguards, transfer of personal data to a third country or an international organisation is based on the following condition(s):

☐ (a) The data subject has explicitly consented to the proposed transfer, after having been informed of the possible risks of such transfers for the data subject due to the absence of an adequacy decision and appropriate safeguards
☐ (b) The transfer is necessary for the performance of a contract between the data subject and the controller or the implementation of pre-contractual measures taken at the data subject's request
☐ (c) The transfer is necessary for the conclusion or performance of a contract concluded in the interest of the data subject between the controller and another natural or legal person
☐ (d) The transfer is necessary for important reasons of public interest
☐ (e) The transfer is necessary for the establishment, exercise or defense of legal claims
☐ (f) The transfer is necessary in order to protect the vital interests of the data subject or of other persons, where the data subject is physically or legally incapable of giving consent
☐ (g) The transfer is made from a register which, according to Union law, is intended to provide information to the public and which is open to consultation either by the public in general or by any person who can demonstrate a legitimate interest, but only to the extent that the conditions laid down in Union law for consultation are fulfilled in the particular case

## 8) Retention time (Article 4(e))

*How long will the data be retained and what is the justification for the retention period? Please indicate the starting point and differentiate between categories of persons or data where needed (e.g. in selection procedures candidates who made it onto the reserve list vs. those who didn`t). Are the data limited according to the adage "as long as necessary, as short as possible"?*

| Category of personal data | Category of data subjects | Retention period |
|---|---|---|
| Personal and contact details | (Prospective) interviewees and participants in non-participant observations | For Ecorys: Three months [from the end of the project]<br><br>For FRA: One year [from the end of the project] – Ecorys will transfer all the data in this regard to FRA in case it would be needed for the finalisation of the FRA report (to revert back to interviewees). |
| Information disclosed during the interview/focus group | Interviewees/focus group participants | Will be used to inform the report and kept by Ecorys for one year from the end of the project, in case further clarifications would be needed for the preparation of the final FRA report. |

| | | |
|---|---|---|
| | | The reporting templates (summary records of the conversations) and report, which will not contain any personal data, will be archived by FRA. |
| Audio and/or video recording for in-person and online interviews and focus groups | Interviewees/focus group participants<br>Ecorys /sub-contractor staff | If audio and/or video recording is used the files will be deleted by Ecorys in three months [from the end of the project]. The data will be stored for purposes of drafting the report.<br><br>FRA will receive these files from Ecorys only upon request, for quality management purposes. FRA might also store such files for the purposes of conducting interviews on its own. If FRA receives/stores any such files, they will be deleted at the latest one year after the end of the contract. |
| Transcripts | Interviewees/focus group participants<br>Ecorys/ sub-contractor staff | If interviews/focus groups are transcribed, the transcripts will be deleted by Ecorys in three months [from the end of the project]. The data will be stored for purposes of drafting the report.<br><br>FRA will receive these files from Ecorys only upon request, for quality management purposes. FRA might also store such files for the purposes of conducting interviews on its own. If FRA receives/stores any such files, they will be deleted at the latest one year after the end of the contract. |

| 9) Technical and organisational security measures (Article 31.1(g)) |
|---|
| ***Please specify where/how the data are stored during and after the processing; please describe the security measures taken by FRA or by the contractor*** |
| |

**How is the data stored?**

| | |
|---|---|
| Document Management System (DMS) | ☒ |
| FRA network shared drive | ☒ |
| Outlook Folder(s) | ☒ |
| CRM | ☐ |
| Hardcopy file | ☐ |
| Cloud (MS 365) | ☒ |
| Servers of external provider | ☒ |

Other (please specify):
The data collected by Ecorys for this project will be stored on Ecorys' internal server located in Microsoft data centres in the United Kingdom and accessed by Ecorys personnel based in the EU.

## 10) Exercising the rights of the data subject (Article 14 (2))

*How can people contact you if they want to know what you have about them, want to correct or delete the data, have it blocked or oppose to the processing? How will you react?*

See further details in the Data Protection notice: AI-Project@fra.europa.eu

**Interviews and focus groups**

Prior to participation in an interview or focus group, we will share the data protection notice with participants. The document outlines the purposes of the project, which (personal) information will be collected and processed, for which purposes and by whom, as well as the rights that participants have with regard to access, rectification, erasure, etc. Prior to the interview or focus group, we will confirm that participants are familiar with this document and obtain their informed consent. The document will specify that participants may contact AI-Project@fra.europa.eu to exercise any of the rights listed below.

***Data subject rights***

- ☒ Right of access
- ☒ Right to rectification
- ☒ Right to erasure (right to be forgotten)
- ☒ Right to restriction of processing
- ☐ Right to data portability
- ☒ Right to object
- ☒ Notification obligation regarding rectification or erasure of personal data or restriction of processing
- ☒ Right to have recourse
- ☒ Right to withdraw consent at any time