

**Assessing high-risk artificial intelligence: selected use-cases**

**DATA PROTECTION NOTICE**

The European Union Agency for Fundamental Rights (FRA or Agency) processes the personal data of a natural person in compliance with Regulation 2018/1725 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, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC.

This data protection notice explains FRA's policies and practices regarding its collection and use of your personal data, and sets forth your privacy rights. We recognise that information privacy is an ongoing responsibility, and we will update this notice where necessary.

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## 1. Why do we process personal data?

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.

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.

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.

The research will be carried out by the external contractor (ECORYS EUROPE EEIG-GEIE based in Rue Belliard 12, B-1040 Brussels, Belgium – [www.ecorys.com](http://www.ecorys.com)), selected by FRA through a public procurement procedure and which will act as processor.

## 2. What kind of personal data does the Agency process?

We will collect only the following personal data necessary for the processing operation described above.

### (a) General personal data:

- 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
- Family, lifestyle, and social circumstances (if disclosed by participants in the focus groups)
  
- 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: for purposes of setting up diverse focus groups, (prospective) participants will be asked to indicate their ethnic origin and whether they have any disabilities at the

application stage. (Prospective) participants can choose whether to disclose such information or not and if they do, they explicitly give their consent to the processing of such data by ticking a box in the application form provided by Ecorys. In addition to this, special categories of personal data may be incidentally revealed during the interviews and/or focus groups (both by the responses of participants and through the image showed during online interviews):

- data revealing racial or ethnic origin
- political opinions
- religious or philosophical beliefs
- data concerning health or sexual orientation

### **3. How do we collect and process your personal data?**

The data will be collected for the purpose of semi-structured interviews and focus group discussions conducted by the external contractor.

#### *3a. Information we receive from other sources:*

FRA and ECORYS will collect and process publicly available contact details of participants in the interviews 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.

#### *3b. Information you provide us:*

Participants in the focus groups will be selected via an online open call, which will be published on Ecorys' website. Anyone can express their interest in being considered for participation by using the web application form (Microsoft forms) and providing their contact details and other information requested in the application form to Ecorys. Microsoft forms will be used in an 'anonymous' setting, which means that IP addresses or cookies will not be collected.

You may provide us with missing contact or employer information that is not publicly available online, through the consent form that will be provided to you before the interview or the web application form for participation in the focus groups, such as: name, employer's name, function title, telephone number, and email address and, in the case of focus groups, the special categories of personal data indicated above.

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 your consent, interviews and focus groups discussions will be audio and/or video recorded by ECORYS. If the interview/focus group is conducted online, it will be recorded and automatically transcribed using Microsoft Teams and stored on an ECORYS 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 or focus group, the interviewer will upload the recording to an ECORYS server and delete it from the standalone device. The recordings will be kept by the research team at ECORYS and may be shared with FRA for quality control purposes. The responses to the interviews and group discussions will be collected and summarised (in a pseudonymised form) in a report by ECORYS. 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. For more details see Section 10.

### *3c. Information we collect about you*

Your IP address, connection details, cookies, and/or device information might be collected if the interviews or focus groups take place online via Microsoft Teams. In this context, ECORYS is requested to inform interviewees before the interview takes place about which online conferencing tool they will use for the interview and to provide a link to the tool's website where the tool's data protection policy can be found.

## **4. Who is responsible for processing your personal data?**

The Agency is the legal entity responsible for the processing of your personal data and determines the objective of this processing activity. The Head of the Justice, Digital and Migration Unit is responsible for this processing operation.

## **5. Which is the legal basis for this processing operation?**

The processing operation is carried out in the public interest, and it is necessary to achieve the Agency's objective, as stated in Article 2 of its Founding Regulation (EC) No. 168/2007 (as amended) to provide its stakeholders, including Union institutions and EU Member States, with assistance and expertise relating to fundamental rights, including its tasks described in Article 4. The project is also included in FRA's Single Programming Document 2024 – 2026 Fiche B.2.5, which describes the project and is available [here](#).

Therefore, the processing is lawful under Article 5.1.(a) of the Regulation (EU) No 2018/1725.

In addition, since the participation in the above-mentioned interviews and focus groups is not mandatory, we will request your explicit consent to participate by means of a consent form, and to the audio and/or video recording of the interviews, for accuracy and transcription purposes.

Therefore, the processing is also in accordance with Article 5.1(d) of Regulation (EU) No 2018/1725.

The processing of special categories of data is lawful under Article 10(2)(a) of Regulation 2018/1725. Specific consent will be requested in the consent form or in Ecorys' online application form.

## **6. Who can see your data?**

The details of interview and focus group participants (names, surnames, contact details, employment details) will be available to the ECORYS project team and FRA staff working on the project. Access is restricted to authorized staff members and only these members have access rights to open the files. ECORYS and FRA

will have access to these personal data as well as to the data collected via interviews and focus group discussions. Only ECORYS will have access to the special categories of personal data shared by (prospective) participants in the online application form. 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, Kapharos AB. Sub-processing will also be conducted by Microsoft in cases of interviews and focus group discussions conducted online. All personal data will be deleted after the specified data retention period has passed (see point 10).

#### **7. Do we share your data with other organisations?**

Personal data is processed by the Agency only. In case that we need to share your data with third parties, you will be notified to whom your personal data has been shared with.

#### **8. Do we intend to transfer your personal data to Third Countries/International Organizations**

The personal data collected by Ecorys for this project will be accessed only by Ecorys personnel based in the EU. However, the collected data will be stored in Microsoft data centres in the UK. These will be done in compliance with provisions of Article 1.9.2(b) v. of the contract signed between FRA and Ecorys, based on the [EU/UK adequacy decision](#) which guarantees an adequate level of protection.

Moreover, the data collected by Ecorys is stored in the cloud server of Microsoft and Ecorys might use Microsoft Teams to carry out interviews and focus groups online. As Microsoft is a US based company (subject to US Surveillance laws), a transfer of limited personal data to the US cannot be 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.

#### **9. When will we start the processing operation?**

We will start the processing operation together with the contractor in May 2024.

#### **10. How long do we keep your data?**

Ecorys will keep the personal and contact details, audio and/or video recordings and transcripts from the interviews and focus groups for three months after the project's end (until 12.2.2025). FRA will keep the personal and contact details for one year after the project's end (until 12.11.2025) for the purposes of finalising the final FRA report. Special categories of personal data concerning the data subjects' ethnic origin or health conditions will only be kept for the purposes of organizing the focus group discussions and deleted immediately after the groups have been set up.

FRA can receive access to the audio recordings and transcripts upon request for quality management purposes. Should FRA receive any such files, they will be deleted at the latest in one year after the end of the contract. FRA will archive the anonymized summary records of the conversations and final report.

## **11. How can you control your data?**

Under Regulation 2018/1725, you have rights we need to make you aware of. The rights available to you depend on our reason for processing your information. You are not required to pay any charges for exercising your rights except in cases where the requests are manifestly unfounded or excessive, in particular because of their repetitive character.

We will reply to your request without undue delay and in any event within one month of receipt of the request. That period may be extended by two further months where necessary, taking into account the complexity and number of the requests.

You can exercise your rights described below by sending an email request to [AI-Project@fra.europa.eu](mailto:AI-Project@fra.europa.eu).

### **11.1. The value of your consent**

Since your participation is not mandatory, we need proof that you consented to participate in the interviews and focus groups, as well as to their audio (and/or video) recording and automatic transcription and to the incidental processing of special categories of personal data. This consent will be collected by email in a consent form prior to your participation in the interview or focus group. Consent for the processing of special categories of data for the purpose of organising the focus groups will be collected via the online application form.

You have the right to withdraw your consent at any time, and we will delete your data or restrict its processing. All processing operations up until the withdrawal of consent will still be lawful.

### **11.2. Your data protection rights**

#### **a. Can you access your data?**

You have the right to receive information on whether we process your personal data or not, the purposes of the processing, the categories of personal data concerned, any recipients to whom the personal data have been disclosed and their storage period. Furthermore, you can have access to such data, as well as obtain copies of your data undergoing processing.

#### **b. Can you modify your data?**

You have the right to ask us to rectify your data you think is inaccurate or incomplete at any time.

**c. Can you restrict us from processing your data?**

You have the right to restrict the processing of your personal data. If you do, we can no longer process them, but we can still store them. In some exceptional cases, we will still be able to use them (e.g. with your consent or for legal claims). You have this right in a few different situations: when you contest the accuracy of your personal data, when the Agency no longer needs the data for completing its tasks, when the processing activity is unlawful, and finally, when you have exercised your right to object.

**d. Can you delete your data?**

You have the right to ask us to delete your data when the personal data are no longer necessary for the purposes for which they were collected, when you have withdrawn your consent or when the processing activity is unlawful. In certain occasions we will have to erase your data in order to comply with a legal obligation to which we are subject.

We will notify to each recipient to whom your personal data have been disclosed of any rectification or erasure of personal data or restriction of processing carried out in accordance with the above rights unless this proves impossible or involves disproportionate effort from our side.

**e. Are you entitled to data portability?**

Data portability is a right guaranteed under Regulation 1725/2018 and consists in the right to have your personal data transmitted to you or directly to another controller of your choice.

In this case, this does not apply for two reasons: I) in order for this right to be guaranteed, the processing should be based on automated means, however we do not base our processing on any automated means; II) this processing operation is carried out in the public interest, which is an exception to the right to data portability in the Regulation.

**f. Do you have the right to object?**

When the legal base of the processing is “*necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the Union institution or body*” which is the case in most of our processing operations, you have the right to object to the processing. In case you object, we have to stop the processing of your personal data, unless we demonstrate a compelling reason that can override your objection.

**g. Do we do automated decision making, including profiling?**

Your personal data will not be used for automated decision-making including profiling.

**12. What security measures are taken to safeguard your personal data?**

The Agency has several security controls in place to protect your personal data from unauthorised access, use or disclosure. We keep your data stored on our internal servers with limited access to a specified audience only. Moreover, in accordance with the provisions of the contract signed with Agency, Ecorys (as processor) has adopted appropriate technical and organizational security measures for the implementation of the contract.

### 13. What can you do in the event of a problem?

a) The first step is to notify the Agency by sending an email to [AI-Project@fra.europa.eu](mailto:AI-Project@fra.europa.eu) and ask us to take action.

b) The second step, if you obtain no reply from us or if you are not satisfied with it, contact our Data Protection Officer (DPO) at [dpo@fra.europa.eu](mailto:dpo@fra.europa.eu).

c) At any time you can lodge a complaint with the EDPS at <http://www.edps.europa.eu>, who will examine your request and adopt the necessary measures.

### 14. How do we update our data protection notice?

We keep our data protection notice under regular review to make sure it is up to date and accurate.

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