

**The role of fundamental rights for the protection of the rule of law: relevant national case law and other examples**

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.

For more detailed information on the processing of your personal data in the context of FRA projects within FRANET framework contracts, please consult our [General Record of processing activities](#).

1. [Why do we process personal data?](#)
2. [What kind of personal data does the Agency process?](#)
3. [How do we process your personal data?](#)
4. [Who is responsible for processing your personal data?](#)
5. [Which is the legal basis for this processing operation?](#)
6. [Who can see your data](#)
7. [Do we share your data with other organisations?](#)
8. [Do we intend to transfer your personal data to Third Countries/International Organizations](#)
9. [When will we start the processing operation?](#)
10. [How long do we keep your data?](#)
11. [How can you control your data?](#)
  - 11.1. [The value of your consent](#)
  - 11.2. [Your data protection rights](#)
12. [What security measure are taken to safeguard your personal data?](#)
13. [What can you do in the event of a problem?](#)
14. [How do we update our data protection notice?](#)

## 1. Why do we process personal data?

The purpose of the processing of the personal data is to collect information and data for a research project titled *“The role of fundamental rights for the protection of the rule of law: relevant national case law and other examples”*.

This project is intended to providing examples and avenues for how upholding fundamental rights can be instrumental in addressing and preventing rule of law backsliding on the national level. The starting point of the research is that fundamental rights and the rule of law are intrinsically linked, so that protection of fundamental rights may also serve a more ‘systemic’ rule of law function. The research aims at identifying specific and important examples of cases where the protection of fundamental rights (individual entitlements) has been directly linked to the protection of the rule of law in the overall legal-political system, thereby also gaining a more systemic function beyond the individual entitlement.

This project consists mostly of desk research carried out by FRANET contractors<sup>1</sup>, which will be informed by consultations with experts on the subject matter of the rule of law and fundamental rights in all EU Member States and the three FRA observer countries (Serbia, Albania and North Macedonia). FRANET contractors will provide the names of the experts to be consulted for the review and approval of FRA. A brief overview of the consultation undertaken (which types of institutions were consulted, without identifiable information) will be included in the final report. Therefore, the names of the experts consulted will not be mentioned in the final report.

The results of this project are intended to be used for promoting public awareness on the importance of the rule of law (and EU values at large). FRANET reports will be published on the FRA website and a report on the findings will be published by the Agency.

## 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, phone number).
- Employment details (position/function, organisation, opinions)
- Other:
  - [TO BE ADDED OR REMOVED BY THE RESPECTIVE FRANET CONTRACTOR IF APPLICABLE: if the interviews with the relevant persons take place online, IP addresses,

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<sup>1</sup> FRANET contractors covering all EU Member States have been selected by FRA following a public procurement procedure to provide data collection and research services on fundamental rights issues.

cookies, metadata or information about participants' devices might be collected by the online tool *[insert here the name of the online tool and, if available, the link to the respective privacy notice of the tool provider]* used to carry out the interview.]

(b) Special categories of personal data may be incidentally revealed during the interviews (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
- genetic data, biometric data, data concerning health
- information regarding an individual's sexual orientation

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

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

We collect your personal data mentioned above directly from you through research which will be conducted by FRA's thirty FRANET contractors through digital channels (e.g. video call) or face-to-face, in the countries covered by the research (see Section 1 above).

Your name and organisation will not appear in the final report. Interviews will not be recorded, though notes will be taken. Therefore, it will not be possible to identify you.

#### *3b. Information we collect about you:*

Your IP address, connection details, cookies, and/or device information might be collected if the interviews take place online, as indicated in Section 2 above. In this context, FRANET contractors are 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.

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

FRANET contractors will use information gathered through the desk research component of the project (SR 41) to identify the contact details of the persons to be interviewed by searching online for publicly available contact details, or from authorities of the respective EU Member State or other organisations or entities. FRANET contractors could also get contact details via their own professional networks, or via FRA (subject to receiving consent for sharing their contact details with the FRANET contractors).

### **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 Institutional Cooperation and Networks Unit is responsible for this processing operation.

The thirty [FRANET contractors](#) will act as FRA's data processors and will collect the data on behalf of FRA as specified under section 3 above.

## 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, amended by Council Regulation (EU) 2022/555 (FRA's founding regulation), 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 (1)(a), (c) and (d). The project is also included in FRA's Single Programming Document 2024 – 2026 Fiche B.1.6, 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 consultations is not mandatory, we will request your consent to participate by means of a confirmation of your consent via e-mail, to the taking of notes. Your explicit consent will also be asked for the processing of special categories of personal data that may incidentally be revealed during the interview.

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

The incidental processing of special categories of data (e.g. video revealing racial/ethnic origin) is lawful under Article 10(2)(a) of Regulation 2018/1725. Explicit consent will be requested by e-mail.

## 6. Who can see your data?

Your data can be accessed by the designated staff of the FRANET contractors (and, in some cases, by their sub-processors) carrying out the interviews. Furthermore, the data can be accessed by staff members of FRA's Institutional Cooperation and Networks Unit and FRA staff working on that project. Access is restricted to authorised staff members and only these members have access rights to open the files.

FRANET contractors are bound by specific contractual clauses for any processing operations on behalf of FRA, and by the confidentiality obligations deriving from Regulation (EU) 2018/1725).

## 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?**

No

*[OR, IF APPLICABLE, TO BE ADDED OR REMOVED BY THE RESPECTIVE FRANET CONTRACTOR:*  
The online tool *[to be completed]* used to carry out the interviews is from a US based company, therefore it cannot be completely discarded that limited personal data are transferred to the US. Such transfer, if any, will 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 in January 2025.

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

The personal data referred to in section 2 above will be kept for 24 months after the final date of implementation of the project indicated in the respective FRANET contracts, to be able to use the data when drafting the comparative report. All data held by FRA and contractors will then be deleted. Anonymised research material, e.g. reporting templates, will be kept indefinitely.

**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: [charter@fra.europa.eu](mailto:charter@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 consultations as well as to the taking of notes and to the incidental processing of special categories of personal data. Consent will be collected via e-mail. You have the right to withdraw your consent at any time, and we will either delete your data or restrict or stop 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, as well as the thirty FRANET contractors acting on its behalf as processors within this processing operation, have 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.

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

- a) Data subjects can reach out directly to the Agency by sending an email to [charter@fra.europa.eu](mailto:charter@fra.europa.eu) and ask us to take action.
- b) If you obtain no reply from the Agency or if you are not satisfied with it, contact the FRA Data Protection Officer (DPO) at [dpo@fra.europa.eu](mailto:dpo@fra.europa.eu).
- c) You can lodge a complaint with the EDPS at any time 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.

**END OF DOCUMENT**