

**EUROPEAN ORGANISATION FOR THE SAFETY OF AIR NAVIGATION**

**EUROCONTROL**

**EUROCONTROL REGULATION ON PERSONAL DATA PROTECTION**

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## PREAMBLE

Having regard to Article 13.3 (d) of the Statute of the Agency;

Having regard to Article 26b of the Staff Regulations governing Officials of the EUROCONTROL Agency (Staff Regulations), Article 26b of the General Conditions of Employment governing servants at the EUROCONTROL Maastricht Centre (GCE) and Article 24b of the Conditions of Employment of staff exclusively seconded to the ECAC Secretariat guaranteeing the right of the Agency's staff to the protection of their personal data processed by the Agency;

Whereas the protection of natural persons in relation to the processing of personal data is a fundamental right;

Whereas the rights and freedoms of individuals should not be adversely affected by the processing of personal data by EUROCONTROL;

Whereas a fair balance should be created between individual rights on the one hand and public interests in the field of air navigation on the other hand;

The Permanent Commission has approved the following EUROCONTROL Regulation on Personal Data Protection (the Regulation):

## SECTION I

### GENERAL PROVISIONS

#### Article 1 - Scope and general principles

1. The provisions of this Regulation apply to the processing of personal data by EUROCONTROL.
2. The provisions of this Regulation shall be applied by all EUROCONTROL staff members and any other persons processing personal data on behalf of EUROCONTROL.
3. Taking into account the nature, scope, context and purposes of processing as well as the risks for the rights and freedoms of natural persons, EUROCONTROL shall implement appropriate technical and organisational measures to ensure and to be able to demonstrate that all personal data processing is performed in accordance with this Regulation.

#### Article 2 - Definitions

For the purposes of this Regulation:

- a. 'personal data' means any information relating to an identified or identifiable natural person; an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name or an identification number, or to one or more factors specific to his/her physical, physiological, mental, economic, cultural or social identity;
- b. 'processing' means any operation or set of operations which is performed on personal data or on sets of personal data, whether or not by automated 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;
- c. 'controller' means the organisation or other entity which, alone or jointly with others, determines the purposes and means of the processing of personal data;
- d. 'internal controller' means the EUROCONTROL staff member responsible for the organisational unit that determines the purposes and means of the processing of personal data carried out under his/her authority, and for compliance with Article 5 of this Regulation;
- e. 'processor' means a natural or legal person, public authority, agency or any other body or organisational unit which is authorised to process personal data on behalf of the controller;
- f. 'data subject' means any identified or identifiable natural person relating to whom data are processed;
- g. 'third party' means a natural or legal person, public authority or entity other than the data subject, controller, processor and persons who, under the direct authority of the controller or processor, are authorised to process personal data;
- h. 'recipient' means a natural or legal person, public authority or any other entity to whom the data are disclosed, whether a third party or not; however, authorities which may receive data in the framework of a particular inquiry in accordance with legislation applicable to EUROCONTROL and/or its Members, shall not be regarded as recipients;
- i. 'consent' of the data subject means any freely given, specific, informed and unambiguous agreement to the processing of personal data relating to him/her, given by a clear and affirmative act such as a written statement, including one made by electronic means, or an oral statement;

- j. 'restriction of processing' means the marking of stored personal data with the aim of limiting their processing for a specific period of time by appropriate technical means which make clear that the personal data concerned may not be used unless they are necessary for purposes of proof or in order to protect the rights of a third party;
- k. 'personal data breach' means a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, personal data transmitted, stored or otherwise processed.

### **Article 3 - Legal bases for the processing personal data**

The processing of personal data may only be carried out if one of the following applies:

- a. processing is necessary for the performance of internal administrative tasks necessary to EUROCONTROL, or the exercise of its public interest tasks and official authority functions provided for in the International Convention relating to Co-operation for the Safety of Air Navigation of 13 December 1960, as amended by the Protocol signed at Brussels on 12 February 1981, its Annexes, and other texts governing EUROCONTROL;
- b. processing is necessary for compliance with a legal obligation to which EUROCONTROL is subject;
- c. processing is necessary for the performance of a contract to which the data subject is party or in order to take steps at the request of the data subject prior to entering into a contract;
- d. the data subject has given consent to the processing of personal data for one or more specific purposes;
- e. processing is necessary in order to protect the vital interests of the data subject or another natural person;
- f. processing is necessary for the purposes of the legitimate interests pursued by EUROCONTROL, except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject.

### **Article 4 - Conditions for consent**

- 1. Where processing is based on consent, EUROCONTROL shall be able to demonstrate that the data subject has consented to the processing.
- 2. Prior to the collection of the consent, EUROCONTROL shall inform the data subject of his/her right to withdraw consent at any time. The withdrawal of consent shall not affect the lawfulness of processing before the withdrawal.

### **Article 5 - Principles relating to the processing of personal data**

- 1. Personal data shall be:
  - a. processed lawfully, fairly and in a transparent manner (*lawfulness, fairness and transparency*);
  - b. collected for specified, explicit and legitimate purposes and not further processed in a way incompatible with those purposes; further processing for investigation, detection and prosecution of criminal offences or activities suspected to jeopardise natural persons' safety and security, internal investigations related to infringements of EUROCONTROL regulations, as well as further processing for statistical and scientific research purposes in accordance with paragraph 2 shall not be considered incompatible with the initial purposes (*purpose limitation*);

- c. adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed (*data minimisation*);
  - d. accurate and, where necessary, kept up to date; every reasonable step must be taken to ensure that the personal data which are inaccurate, having regard to the purposes for which they are processed, are erased or rectified without delay (*accuracy*);
  - e. kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data are processed; personal data may be stored for longer periods if processed solely for statistical and scientific research purposes in accordance with paragraph 2 (*storage limitation*);
  - f. processed in a manner that ensures appropriate security of the personal data, including protection against unauthorised or unlawful processing and against accidental loss, destruction, or damage, using appropriate technical or organisational measures (*integrity and confidentiality*).
2. Where EUROCONTROL processes personal data for statistical and scientific research purposes, data anonymisation measures shall be applied, provided that those purposes can be fulfilled in that manner. Where anonymisation is inappropriate or impossible, pseudonymisation measures shall be applied instead. In case neither measure is possible or sufficient to protect data subjects' rights, EUROCONTROL shall consult the Data Protection Supervisory Board.

#### **Article 6 - Special categories of data**

1. Processing of personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership, and the processing of genetic data, biometric data for the purpose of uniquely identifying a natural person, data concerning health or data concerning a natural person's sex life or sexual orientation shall be prohibited.
2. Paragraph 1 shall not apply if one of the following applies:
  - a. the data subject has given his/her explicit consent to the processing of such personal data or has made the data manifestly public;
  - b. the processing is necessary in order to protect the vital interests of the data subject or of another natural person;
  - c. the processing is necessary for the management of safety risks and for protection against serious threats to security;
  - d. the processing is necessary for carrying out EUROCONTROL's employment obligations for the provision of health or social care under its service regulations, for the prevention of health risks, for the management of health or social care systems and services and for the management of social dialogue with trade unions;
  - e. the processing is necessary for the establishment, exercise or defence of legal claims.

## **SECTION II**

### **DATA SUBJECT RIGHTS**

#### **Article 7 - Rights of the data subject**

1. The data subject is granted, free of charge, the right to be informed about the processing of his/her personal data, the right to access all data concerning him/her, the right to data portability, the right to rectification and erasure of his/her data, and the right to restriction of processing of his/her data when the processing of personal data does not comply with this Regulation.

2. The data subject has the right to object, on grounds relating to his/her particular situation, at any time to processing based on point (a) or (f) of Article 3. The personal data shall no longer be processed unless EUROCONTROL demonstrates compelling legitimate grounds for the processing which override the interests, rights and freedoms of the data subject or for the establishment, exercise or defence of legal claims.
3. The data subject has the right not to be subject to a decision based solely on automated processing, which produces legal effects or similarly significantly affects him/her.
4. Restrictions to data subject rights under paragraph 1 can be made only:
  - a. for compelling reasons of confidentiality;
  - b. for important reasons of public interest, particularly in the area of air traffic management;
  - c. for the protection of the data subject or the rights and freedoms of others;
  - d. when the personal data are necessary for an investigation or dispute resolution procedure.
5. Requests for the exercise of the data subject's rights shall be addressed by the data subject in writing to EUROCONTROL. EUROCONTROL shall reply within three months of receipt of the request. This period can be extended for no more than three additional months, taking into account the complexity of the request.
6. If EUROCONTROL does not respond in the relevant time limit under Article 7.5, or if the response to the request is negative, the data subject has the right to submit to the Data Protection Officer a request for advice or to lodge a complaint under Article 25.
7. In the event of obvious abuse by a data subject in exercising his/her rights, the matter may be referred to the Data Protection Officer. In such a case, the Data Protection Officer will decide on the merits of the request and the appropriate follow-up.

#### **Article 8 - Information to be provided to data subjects**

1. EUROCONTROL shall inform the data subject without delay about at least the following details of the processing of the data subject's personal data:
  - a. the legal basis for the processing;
  - b. the purposes of the processing;
  - c. the categories of data concerned;
  - d. where the data have not been obtained by the data subject, the source of the personal data;
  - e. the recipients or categories of recipients of the data, to the extent that transmission is not to be expected taking into account the circumstances;
  - f. the time limits for storing the data or the criteria used to determine them;
  - g. where applicable, the fact that EUROCONTROL intends to transfer personal data under Article 18 and reference to the appropriate safeguards, how to obtain a copy of them or where they have been made available;
  - h. the data subject's rights under Article 7;
  - i. the right to withdraw consent, when consent is used as a legal basis for the processing;
  - j. the identity and contact details of the internal controller;
  - k. the contact details of the Data Protection Officer and the right to lodge a complaint.
2. Where EUROCONTROL intends to further process the personal data for a purpose other than that for which the data were collected, the data subject shall be informed about that other purpose and any relevant information under paragraph 1 prior to the further processing.



3. Where the data are collected from the staff of EUROCONTROL, the obligation to inform the data subject may be achieved by an appropriate reference to the data protection register.
4. In addition to the restrictions under Article 7.4, the application of paragraph 1 and 3 of this Article may be restricted if:
  - a. the data subject already has the information;
  - b. informing the data subject would be impossible or require a disproportionate effort.

#### **Article 9 - Right of access and right to data portability**

1. Where a request for access to personal data has been made, the data subject has the right to obtain a confirmation as to whether or not personal data concerning him/her are being processed, and, if this is the case, to be provided with:
  - a. information concerning the purposes, the categories of personal data, the recipients or categories of recipients to whom the data are disclosed, the source of the data if they have not been collected by the data subject, the envisaged data retention period, the right to lodge a complaint with the Data Protection Officer, the existence of automated decision-making, where relevant, the recipients of the data outside of EUROCONTROL and the appropriate safeguards under Article 17;
  - b. a copy of the personal data in a written or commonly used electronic form.
2. The data subject shall have the right to receive the personal data he/she has provided to EUROCONTROL, in a structured, commonly used and machine-readable format and the right to transmit those data to another controller, where the processing is carried out by automated means and is based on consent or contract pursuant to Article 3.

#### **Article 10 - Right to rectification and erasure**

1. At the data subject's request, EUROCONTROL shall rectify without delay incorrect or incomplete personal data. EUROCONTROL shall notify the third parties to whom the data have already been transmitted of any rectification of data unless this proves to be impossible or requires disproportionate effort.
2. Where the data subject has made a request for erasure of personal data, EUROCONTROL shall erase by a reasonable deadline any data the processing of which does not comply with the Regulation.
3. In addition to the restrictions under Article 7.4, paragraphs 1 and 2 shall not apply to the extent that processing is necessary for compliance with a legal obligation to which EUROCONTROL is subject and/or for the achieving of public interest, statistical and scientific research purposes.

#### **Article 11 - Right to restriction of processing**

1. EUROCONTROL shall restrict the processing of personal data when:
  - a. the data subject contests the accuracy of the data; the restriction shall apply for a period necessary to verify the data;
  - b. the processing is unlawful, and the data subject requests restriction;
  - c. EUROCONTROL no longer needs to process the data, but the data subject requires the data for the establishment, exercise or defence of legal claims;
  - d. the data subject has objected to the processing under Article 7.2; the restriction shall apply for a period necessary to verify whether the legitimate grounds of EUROCONTROL override those of the data subject.

2. Where processing has been restricted, the personal data shall only be processed with the data subject's consent, for the establishment, exercise or defence of legal claims, for the protection of the rights of another person, or for reasons of important public interest.
3. The data subject shall be informed before the restriction of processing is lifted by EUROCONTROL.

### **SECTION III**

#### **DUTIES OF EUROCONTROL AS A CONTROLLER**

##### **Article 12 - Data protection by design and by default**

1. Taking into account the state of the art, the cost of implementation, the context and purposes of processing as well as the risks for rights and freedoms of natural persons, EUROCONTROL shall implement appropriate technical and organisational measures designed to effectively implement data protection principles and protect data subject rights.
2. EUROCONTROL shall ensure that, by default, only personal data which are adequate, relevant and not excessive in relation to the purpose of the processing are being processed.

##### **Article 13 - Data protection impact assessment**

1. Where processing operations are likely to result in a high risk to the rights and freedoms of data subjects, EUROCONTROL shall carry out an objective assessment of their impact prior to starting the processing.
2. A data protection impact assessment shall be in particular required in the case of:
  - a. a systematic and extensive evaluation of personal aspects which is based on automated processing and on which decisions are based that produce legal effects concerning the natural person;
  - b. processing of sensitive data on a large scale;
  - c. applying new technological or organisational solutions in relation to personal data of staff members.
3. EUROCONTROL shall consult the Data Protection Supervisory Board prior to processing where a data protection impact assessment indicates that the processing would result in a high risk to data subjects and where EUROCONTROL is of the opinion that the risk cannot be mitigated by reasonable means in terms of available technologies and costs of implementation.
4. High risks to the rights and freedoms of data subjects within the meaning of paragraph 1 and the minimum content required in the data protection impact assessment shall be defined and specified in implementing rules and/or decisions of the Director General.

##### **Article 14 - Personal data breach**

1. In the case of a personal data breach, the person who discovered it shall immediately inform the internal controller responsible for the data processing, the relevant Data Protection Coordinator or the Data Protection Officer.

The internal controller shall, without undue delay, no later than twenty-four (24) hours after having become aware of it, notify the Data Protection Officer, unless the breach is unlikely to result in a risk to the rights and freedoms of natural persons.

The internal controller shall immediately inform the Information Technology (IT) services where the breach concerns an IT system.

2. notification referred to in paragraph 1 shall at least:
  - a. describe the personal data breach;
  - b. describe the likely consequences of the personal data breach;
  - c. describe the measures taken or proposed by EUROCONTROL to address the personal data breach and mitigate its potential adverse effects.
3. EUROCONTROL shall document any personal data breach, its effects and the remedial action taken unless the breach is unlikely to result in a risk to the rights and freedoms of natural persons.
4. When the personal data breach is likely to result in a high risk to the rights and freedoms of natural persons, EUROCONTROL shall communicate the information under paragraph 2 to:
  - a. the Data Protection Supervisory Board within forty-eight (48) hours of notification by the internal controller pursuant to paragraph 1, and
  - b. to the data subjects without undue delay.
5. If communication under paragraph 4.b would involve disproportionate effort, EUROCONTROL shall instead make a public communication or take a similar measure to inform the data subjects in an equally effective manner. No communication to the data subject shall be required if EUROCONTROL has taken subsequent measures to ensure the high risk referred to in paragraph 4 is no longer likely to materialise.

## **SECTION IV**

### **JOINT CONTROLLERS AND PROCESSORS**

#### **Article - 15 Joint controllers**

1. Where EUROCONTROL, together with one or more other controllers, jointly determines the purposes and means of processing, they shall be joint controllers.
2. Joint controllers shall enter into an arrangement which designates their respective responsibilities for compliance with data protection obligations, in particular as regards the duty to provide information under Article 8 and the exercise of the data subject rights under Article 7.
3. The essence of the arrangement shall be made available to the data subjects. Irrespective of the terms of the arrangement, the data subject may exercise his/her rights under this Regulation in respect of and against each of the controllers.

#### **Article 16 - Processors**

1. Where processing is carried out on behalf of EUROCONTROL, EUROCONTROL shall designate a processor which provides sufficient guarantees to implement appropriate technical and organisational measures that meet the requirements of this Regulation and ensure protection of the rights of the data subject. EUROCONTROL remains responsible for compliance with those measures.
2. The processor shall not engage another processor without prior general or specific written authorisation by EUROCONTROL. In the case of general authorisation, the processor shall inform EUROCONTROL of any intended additions or replacements of other processors, thereby giving EUROCONTROL the opportunity to object to such changes.

3. The processing by a processor shall be governed by a written contract or legal act binding on the processor, which includes the minimum requirements set out in Annex I.

## **SECTION V DATA TRANSFERS**

### **Article 17 - Transfer of personal data outside of EUROCONTROL**

1. Transfer of personal data to recipients outside of EUROCONTROL shall only take place in compliance with this Regulation and under the conditions laid down in this Section, including with regard to onward transfers of personal data from the initial recipients to third parties.
2. EUROCONTROL may transfer personal data only if the recipients have provided appropriate safeguards, and on condition that judicial and non-judicial remedies are available for the data subjects to enforce their rights. Appropriate safeguards can be provided by:
  - a. the applicable national legislation, or internal rules of an international organisation, including applicable international treaties or agreements; or
  - b. standard or ad hoc contractual clauses, certification mechanisms, or other legally binding and enforceable instruments, adopted and implemented by the parties involved in the transfer and the further processing.
3. The appropriate safeguards shall include the minimum requirements set out in Annex II. In cases of doubt, personal data may be transferred on the basis of the EUROCONTROL Personal Data Transfer Rules under paragraph 4 or pursuant to the derogations set out in Article 18.
4. Transfers to public authorities or bodies carrying out public tasks of EUROCONTROL Member States may take place on the basis of the EUROCONTROL Personal Data Transfer and Processing Rules as set out in Annex III.

### **Article 18 - Derogations**

1. In the absence of appropriate safeguards pursuant to Article 17, personal data can be transferred to recipients outside of EUROCONTROL only if one of the following conditions applies:
  - a. the data subject has explicitly consented to the transfer, after having been informed of the possible risks of such transfers due to the absence of appropriate safeguards;
  - b. the transfer is necessary for the performance of a contract between the data subject and EUROCONTROL 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 EUROCONTROL and a third party;
  - d. the transfer is necessary for important reasons of public interest;
  - e. the transfer is necessary for the establishment, exercise or defence 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; or
  - g. the transmission is made from a register which according to the Regulation 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, to the extent that the conditions laid down for consultation are fulfilled in the particular case.

2. EUROCONTROL shall inform the Data Protection Supervisory Board about the categories of cases in which paragraph 1 is to be applied. Data transfers under paragraph 1 shall be made only after a final decision by the Director General.

## **SECTION VI GOVERNANCE**

### **Article 19 - Data Protection Officer**

1. A Data Protection Officer shall be appointed by the Director General on the basis of his/her knowledge of data protection law for a period of five (5) years. The appointment shall be renewable for periods of equal length.
2. The Data Protection Officer shall be independent. EUROCONTROL shall ensure that the Data Protection Officer does not receive any instructions regarding the performance of the tasks under Article 20. The Data Protection Officer cannot be dismissed or penalised by EUROCONTROL for the performance of these tasks. The Data Protection Officer shall report directly to the Director General.
3. EUROCONTROL shall ensure that the Data Protection Officer is involved, properly and in a timely manner, in all issues which relate to the protection of personal data.
4. EUROCONTROL shall ensure full co-operation with the Data Protection Officer in the performance of his/her duties. In particular, the Data Protection Officer shall receive information in reply to his/her queries.
5. EUROCONTROL shall provide the necessary resources for the Data Protection Officer to carry out his/her tasks, including access to personal data subject to processing operations, processing installations and data carriers, and to maintain his/her expert knowledge.
6. The Data Protection Officer is bound by secrecy as regards the performance of the tasks under Article 20.
7. The Data Protection Officer may be discharged of his/her duties with the consent of the Data Protection Supervisory Board if he/she no longer fulfils the conditions required for the performance of her or his duties.

### **Article 20 - Tasks of the Data Protection Officer**

1. The tasks of the Data Protection Officer are to:
  - a. inform and advise the persons who carry out processing activities on their obligations pursuant to this Regulation;
  - b. monitor the internal application and compliance with this Regulation and other personal data protection rules of EUROCONTROL;
  - c. cooperate with the Data Protection Supervisory Board at the latter's request or on the Data Protection Officer's own initiative;
  - d. raise awareness among and provide training for staff involved in processing activities;
  - e. ensure that data subjects are informed of their rights and obligations pursuant to this Regulation;
  - f. bring to Director General's attention any proposals for improvement of the data protection system;
  - g. submit an annual work programme and annual activity report to the Director General and the Data Protection Supervisory Board;
  - h. maintain a register of processing activities under Article 21;
  - i. take decisions specifically mentioned in this Regulation;
  - j. carry out all other tasks necessary for the implementation of this Regulation.

2. The Data Protection Officer may fulfil other tasks and duties. EUROCONTROL shall ensure that any such tasks and duties do not result in a conflict of interest.
3. Without prejudice to other tasks and powers under the Regulation, the Data Protection Officer may, on his/her own initiative or on the initiative of the Director General, Internal Audit, the Central Staff Committee, or any interested individual, make enquiries into any matters and occurrences directly related to his/her tasks. He/she may invite the person responsible to comment within a period which he/she shall specify. He/she may bring to the attention of the relevant manager or the Director General any shortcomings or failure to comply with the obligations of the Regulation and make relevant recommendations.

### **Article 21 - Records of processing activities**

1. EUROCONTROL shall maintain records of processing activities containing:
  - a. the identity of the internal controller, and where applicable, the processor and the joint controller;
  - b. the purposes for the processing;
  - c. the legal basis for the processing;
  - d. a description of the categories of data subjects and of the categories of personal data;
  - e. the categories of recipients to whom the personal data have been or will be disclosed;
  - f. where applicable, transfers of personal data to a recipient outside of EUROCONTROL, including the identification of that recipient and the applicable safeguards;
  - g. the retention period for the different categories of data;
  - h. the level of risk of the processing activity;
  - i. a general description of the applicable technical and organisational measures taken in order to ensure the security and the confidentiality of the data at a level appropriate to the risk for the rights of data subjects.
2. The Data Protection Officer shall maintain a register of records of processing activities received from the internal controllers. The register shall be kept in electronic form and shall be made publicly accessible, save for any confidential records.

### **Article 22 - Data protection coordinators**

1. For each EUROCONTROL directorate, site or business area, a data protection coordinator shall be designated by the directors, in consultation with the Data Protection Officer, from among the members of the staff of EUROCONTROL.
2. Without prejudice to the responsibilities of the Data Protection Officer, the data protection coordinator shall:
  - a. assist staff members in complying with their obligations and exercising their rights under this Regulation;
  - b. coordinate the implementation and compliance with the Regulation in EUROCONTROL directorates, sites or business areas, and ensure efficient coordination in this regard with the Data Protection Officer.

## **SECTION VII**

### **DATA PROTECTION SUPERVISORY BOARD**

#### **Article 23 - Data Protection Supervisory Board**

1. A EUROCONTROL Data Protection Supervisory Board is hereby established.

2. The Data Protection Supervisory Board shall be composed of three members and an equal number of alternates with proven expertise in the field of personal data protection.
3. The members and alternates shall be designated by three Member States on a rotating basis, according to the French alphabetical order of the signatories to the revised Convention, for a term of office of three (3) years. The process for the designation of members and alternates and the Rules of Procedure of the Data Protection Supervisory Board are set out in Annex IV.
4. The members and alternates shall discharge their duties in full independence. They shall neither solicit nor accept instructions from EUROCONTROL, any government or other body. They shall not undertake any other function within, or on behalf of, EUROCONTROL. They shall be bound by an obligation of confidentiality, which continues indefinitely after their term comes to an end.
5. EUROCONTROL shall provide the logistical and financial support required for the proper functioning of the Data Protection Supervisory Board, including its secretariat.

#### **Article 24 - Tasks of the Data Protection Supervisory Board**

The tasks of the Data Protection Supervisory Board shall be to:

- a. monitor the application of this Regulation;
- b. carry out investigations and data protection audits;
- c. enforce compliance with this Regulation by issuing orders to EUROCONTROL to provide necessary information, comply with data subjects' requests and/or bring its processing operations into compliance;
- d. handle complaints lodged by a data subject, investigate, to the extent appropriate, the subject matter of the complaint and inform the complainant of the progress and the outcome of the investigation as well as its conclusions, in particular if further investigation is necessary;
- e. issue an opinion on the need for a data protection impact assessment following a request from EUROCONTROL, and advise EUROCONTROL in response to requests for consultation pursuant to Article 13.3;
- f. provide advice on measures relating to the protection of the rights and freedoms of natural persons in case of a personal data breach;
- g. provide consultations on potential amendments to this Regulation;
- h. give its opinion and, where relevant, provide its consent for discharging the Data Protection Officer of his/her duties pursuant to Article 19.7;
- i. submit an annual activity report to the Permanent Commission via the Provisional Council, with a copy to the Director General and the Data Protection Officer.

### **SECTION VIII COMPLAINTS**

#### **Article 25 - Requests and complaints**

1. Any data subject may submit to the Data Protection Officer a request for advice on data protection matters. The Data Protection Officer may carry out an investigation and submit proposals to the internal controller and/or the Director General to make improvements or remedy shortcomings and shall inform the data subject of his/her recommendations and the measures taken to implement them.

2. Any data subject may submit to the Data Protection Supervisory Board a complaint against an infringement of this Regulation adversely affecting them.
3. Complaints by EUROCONTROL staff shall be governed by the relevant provisions of the service regulations applicable to the staff member concerned.
4. Complaints by persons which are not EUROCONTROL staff shall be introduced within three months of the date on which the complainant became aware of an act adversely affecting them, either where EUROCONTROL has taken a decision or where it has failed to adopt a measure prescribed by this Regulation.

Complaints shall be made in writing, in the English or the French language. Before submitting a complaint to the Data Protection Supervisory Board, the data subject shall first try to resolve the matter with the Data Protection Officer.

The Data Protection Supervisory Board shall handle the complaint in accordance with its Rules of Procedure. The Data Protection Supervisory Board shall communicate its conclusions to the data subject, the Director General and the Data Protection Officer. Upon receipt of the conclusions of the Data Protection Supervisory Board, the Director General shall take a decision in accordance with the conclusions of the Board.

If the Data Protection Supervisory Board does not handle the complaint or does not inform the data subject within 60 days of the progress or outcome of the complaint, EUROCONTROL shall be deemed to have adopted a negative decision.

5. The Director General shall communicate his/her final decision to the data subject, the Data Protection Supervisory Board and the Data Protection Officer and shall inform the data subject that he/she has the right to challenge the decision pursuant to Article 26 of this Regulation.

### **Article 26 - Judicial redress and arbitration**

1. Where a complaint from a staff member has been rejected by express or implied decision pursuant to Article 25.3, the dispute may be referred to the Administrative Tribunal of the International Labour Organization (ILOAT) in accordance with the service regulations applicable to the staff member concerned.
2. Where a complaint from a data subject who is not a staff member has been rejected by express or implied decision pursuant to Article 25.4, the dispute shall be settled by arbitration in accordance with the Rules of Arbitration of the International Chamber of Commerce. There shall be one arbitrator appointed in accordance with the said Rules. The place of arbitration shall be Brussels (Belgium). The law applicable to the arbitration shall be the provisions of this Regulation and any other relevant rules of the Organisation adopted for its implementation. The notice of arbitration shall be filed within three (3) months of:
  - the date of the receipt by the data subject of the final decision pursuant to Article 25.5;  
or
  - the date of the implied decision pursuant to Article 25.4.The costs of the proceedings shall be borne by EUROCONTROL, while the data subject shall bear his/her costs of legal representation, unless the arbitral tribunal decides otherwise.
3. Decisions that have not been challenged in accordance with paragraphs 1 or 2 above shall be final and binding on all parties. The decision of the ILOAT or the arbitration award pursuant to paragraphs 1 or 2 above shall be final and binding on the parties.



### **Article 27 - Right to compensation**

Any data subject who has suffered material or non-material damage as a result of an infringement of this Regulation shall have the right to receive compensation from EUROCONTROL.

### **Article 28 - Disciplinary measures**

An official or servant in breach of his/her obligations under this Regulation, shall be liable to disciplinary measures in accordance with the service regulations applicable to the staff member concerned.

### **Article 29 - Final provisions**

1. The first year after the entry into effect of this Regulation is a transition period, renewable upon decision of the Director General, during which EUROCONTROL shall establish the necessary procedures and bring its data processing activities into conformity with this Regulation.
2. The Director General may, after consultation of and upon a proposal from the Data Protection Officer, adopt implementing rules to this Regulation.

## ANNEX I

### Elements to be included in a contract or legal act with a processor

#### 1. General requirements

As regards Article 16.3 of this Regulation, the written contract or legal act binding the processor shall require the processor to:

- a. act only on instructions from EUROCONTROL documented in writing;
- b. keep the data confidential;
- c. ensure compliance with the principles set out in Article 5 of the Regulation;
- d. implement appropriate technical and organisational measures to meet the requirements of the Regulation.

#### 2. Specific requirements

In particular, the contract or legal act binding the processor shall set out:

- a. the subject and duration of the work to be carried out;
- b. the extent, type and purpose of the intended data processing;
- c. the duty of the processor to assist the controller in responding to requests for exercising data subject's rights under SECTION II of the Regulation;
- d. the duty of the processor to assist the controller in ensuring compliance with the obligations under SECTION III of the Regulation;
- e. the prohibition applicable to the processor on engaging another sub-processor without the prior written general or specific authorisation of the controller; in the case of general authorisation, the duty of the processor to inform the controller of any intended changes concerning the addition or replacement of sub-processors, and the right of the controller to object to such changes;
- f. the duty of the processor to impose on sub-processors the obligations under this Annex by way of a contract or other legal act;
- g. the duty of the processor to make available to the controller all information necessary to demonstrate compliance with the requirements under this Annex and allow for and contribute to audits, including inspections, conducted by the controller or another auditor mandated by the controller;
- h. the duty of the processor to employ only staff who have committed themselves to confidentiality;
- i. the duty of the processor to notify the data controller of any personal data breach and assist the controller in addressing the breach and mitigating its adverse effects;
- j. the return of data storage media and/or the erasure of data recorded by the processor after the work has been carried out.

## ANNEX II

### Data protection safeguards for data transfers outside of EUROCONTROL

#### 1. General requirements

The appropriate safeguards under Article 17.2 of the Regulation shall guarantee that data subjects are afforded a level of protection essentially equivalent to that ensured by the Regulation. The same guarantees should apply in cases of onward transfers from the recipient to third parties.

#### 2. Specific requirements

In particular, the appropriate safeguards shall ensure that:

- a. the recipient processes the personal data only for the specific purpose(s) of the transfer;
- b. where the recipient is a processor, the recipient processes the personal data only on documented instructions from the controller;
- c. the processing takes place only for a duration necessary for the purposes of the processing and after that period all personal data are either deleted or returned to the controller;
- d. the recipient processes only personal data that are adequate, relevant and limited to what is necessary in relation to the purposes for the processing;
- e. the recipient takes reasonable steps to ensure the personal data are accurate and, where necessary, kept up to date;
- f. the recipient implements appropriate technical and organisational measures to ensure the security of the data, including protection against personal data breach;
- g. the recipient takes appropriate measures to address any personal data breach, including measures to mitigate its adverse effects;
- h. additional safeguards and/or restrictions are applied to the processing of sensitive personal data;
- i. the data subject has real and effective methods at his/her disposal in order to exercise the data subject rights under Article 7 of the Regulation;
- j. the recipient employs only staff that have committed themselves to confidentiality;
- k. the recipient can demonstrate to EUROCONTROL compliance with the safeguards under this Annex and keeps documentation of its processing activities.

## **ANNEX III**

### **EUROCONTROL Personal Data Transfer and Processing Rules**

#### **Article 1 - Purpose and scope**

1. The purpose of these Personal Data Transfer and Processing Rules (the Rules) is to ensure the provision of appropriate safeguards pursuant to Article 17.2 of the EUROCONTROL Data Protection Regulation (the Regulation) in cases of controller-to-controller personal data transfers from EUROCONTROL to a recipient outside of EUROCONTROL (DATA IMPORTER).
2. The details of each transfer, and in particular the categories of personal data that are transferred and the purpose for which they are transferred, shall be specified in separate agreements between EUROCONTROL and the DATA IMPORTER (the Parties). These Rules may be incorporated by reference into such agreements.
3. The terms used in these Rules shall have the same meaning as defined in Article 2 of the Regulation.

#### **Article 2 - General obligations of the DATA IMPORTER**

1. The DATA IMPORTER warrants and undertakes that it is able to satisfy its legal obligations under these Rules and assures that to its knowledge there are no applicable laws and practices to which it is subject that make such satisfaction impossible.
2. The DATA IMPORTER warrants that it has the necessary skills, human, technical and financial resources to undertake the obligations contained in these Rules.
3. The DATA IMPORTER warrants and undertakes that it has put all the necessary procedures in place to ensure that all processing activities it entrusts to processors enjoy a level of assurance and protection equivalent to that provided by these Rules.

#### **Article 3 - Information obligations**

The DATA IMPORTER shall provide EUROCONTROL, at any time upon EUROCONTROL's request, with all information EUROCONTROL requires, and at least with the following information:

- a. all relevant details regarding its own corporate structure, as well as accurate and up-to-date identifying information on all of its entities involved in the processing including the location of their main establishment;
- b. the aspects of the processing for which it relies or intends to rely on the services of a processor, as well as the identifying information of the processor including the location of its main establishment;
- c. geographical details of processing locations, including back-up and redundancy facilities;
- d. the physical, organisational, technical and logical security measures it has in place, which may include but should not be limited to:
  - commonly accepted industry standards and best practices and the means to comply therewith;
  - any information on changes that may have a substantial impact on compliance with such standards and best practices;
  - the information security policies;
  - the relevant security risk assessments with regard to the processing of personal data;
  - the confidentiality obligations imposed on personnel authorised to process the personal data;
  - the incident escalation procedures.

- e. the data breach notification requirements that the DATA IMPORTER may be confronted with on the basis of applicable mandatory law.

#### **Article 4 - Processing-specific obligations**

When processing personal data transferred by EUROCONTROL, the DATA IMPORTER shall adhere to the following obligations and restrictions:

- a. the DATA IMPORTER shall only process personal data in strict compliance with the data protection principles outlined in Article 5 of the Regulation;
- b. where the transfer involves any of the special categories of data under Article 6 of the Regulation, the DATA IMPORTER shall apply specific restrictions and/or additional safeguards adapted to the specific nature of the data and the risks involved;
- c. the DATA IMPORTER shall not process personal data for purposes which are incompatible with the purposes for which the personal data are transferred by EUROCONTROL to the DATA IMPORTER;
- d. the DATA IMPORTER warrants to have taken adequate measures, including security measures, to ensure the availability, integrity and confidentiality of the personal data;
- e. the DATA IMPORTER shall ensure that any person acting under its authority, including a processor, processes the data on its instructions only. The DATA IMPORTER shall ensure that these instructions are relayed by the processor to its sub-processor(s);
- f. the DATA IMPORTER shall be able to demonstrate compliance with its obligations under these Rules. In particular, the DATA IMPORTER shall keep appropriate documentation of the processing activities carried out under its responsibility;
- g. the DATA IMPORTER shall allow EUROCONTROL or an independent third party appointed by EUROCONTROL to inspect and/or audit its processing facilities, processing systems and all relevant documents insofar as necessary to ascertain compliance with the provisions of these Rules. To this end the DATA IMPORTER shall endeavour to comply in a timely fashion with all reasonable requests made or directions given by EUROCONTROL or such independent third party.

#### **Article 5 - Confidentiality and security**

- 1. The DATA IMPORTER shall implement appropriate technical and organisational measures to ensure the security of the personal data, including protection against a personal data breach, and which provide a level of security appropriate to the risk represented by the processing and the nature of the data to be protected.
- 2. The DATA IMPORTER shall ensure that persons authorised to process the personal data have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality.
- 3. The DATA IMPORTER and its processor(s) shall appoint among their staff a single point of contact who shall be responsible for all communication between the DATA IMPORTER, the processor(s) and EUROCONTROL in the event of a personal data breach affecting the personal data processed on behalf of EUROCONTROL.
- 4. The DATA IMPORTER undertakes to promptly notify EUROCONTROL of the occurrence of a personal data breach, and shall provide EUROCONTROL at regular intervals with the details of the personal data breach as they come to light, with assessments of the impact on the personal data as well as with any other information that may be useful to EUROCONTROL to limit, for its own processing activities, the adverse effects on the protection of the personal data and on any other legitimate rights involved.

### **Article 6 - Onward transfers**

The DATA IMPORTER shall not transfer the personal data further to any recipient (onward transfer) that is not bound by these Rules, unless:

- a. the recipient ensures other appropriate safeguards under Article 17.2 of the Regulation that cover the onward transfer;
- b. the recipient enters into a binding instrument with the DATA IMPORTER ensuring the same level of data protection as under these Rules, and the DATA IMPORTER provides a copy of these safeguards to EUROCONTROL;
- c. such onward transfer is necessary for the establishment, exercise or defence of legal claims in the context of specific administrative, regulatory or judicial proceedings;
- d. such onward transfer is necessary in order to protect the vital interests of the data subject or of another natural person;
- e. where none of the other conditions apply, the DATA IMPORTER has obtained the explicit consent of the data subject for an onward transfer in a specific situation, after having informed him/her of its purpose(s), the identity of the recipient and the possible risks of such transfer to him/her due to the lack of appropriate data protection safeguards.

### **Article 7 - Conduct vis-à-vis national governmental and judicial authorities**

1. The DATA IMPORTER shall inform EUROCONTROL immediately of any request, order, inquiry or subpoena by a competent national governmental or judicial authority directed at the DATA IMPORTER or its processor(s) which entails the communication of personal data transferred by EUROCONTROL to the DATA IMPORTER and/or information associated with such processing.
2. Any request, order, inquiry or subpoena shall be complied with in such a manner that only those data which are strictly necessary to comply with the request, order, inquiry or subpoena are communicated (data minimisation) and insofar as the communication is necessary:
  - a. or legally required on important public interest grounds; or
  - b. for the protection against serious threats to public security and public order; or
  - c. for the prosecution of criminal offences; or
  - d. in the framework of judicial proceedings, or for the establishment, exercise or defence of legal claims; or
  - e. to protect the vital interests of the data subject.

### **Article 8 - Rights of the data subject**

1. The DATA IMPORTER warrants and undertakes to ensure that the data subject has real and effective methods at his/her disposal in order to exercise at least the rights granted to him/her in SECTION II of the Regulation. The DATA IMPORTER shall inform the data subject of the rights conferred upon him/her.
2. The DATA IMPORTER shall inform the data subject of the possibility of lodging a complaint with the competent supervisory authority and/or seeking judicial redress, in cases where the data subject has reason to believe that the DATA IMPORTER has infringed his/her rights in the course of the processing of personal data.

### **Article 9 - Obligations of EUROCONTROL**

1. EUROCONTROL shall undertake reasonable efforts to assess whether the DATA IMPORTER is able to satisfy its obligations in line with the principles set forth in the Regulation and these Rules.

2. EUROCONTROL shall provide all information needed and shall cooperate in good faith with the DATA IMPORTER in order to ensure that all processing of personal data complies with the requirements of the Regulation, and in particular with the principles relating to processing of personal data listed in Article 5 of the Regulation.
3. EUROCONTROL shall do everything reasonably possible to help the DATA IMPORTER to comply with legitimate requests from data subjects and national authorities regarding the processing of the personal data.
4. EUROCONTROL shall communicate to the DATA IMPORTER the identity of its Data Protection Officer, who shall be the single point of contact for all communication with respect to the processing of the personal data.

#### **Article 10 – Liability**

1. A data subject who has suffered damage as a result of a breach of the obligations contained in Articles 2 to 9 of these Rules shall be entitled to receive compensation from the Party in breach of its obligations under these Rules for the damage suffered.
2. The Party whose breach of its obligations under these Rules results in damages to the data subject shall indemnify and hold the other Party harmless from any claim brought by that data subject. The indemnity shall cover all damages suffered by the other Party resulting from such a claim, including legal expenses and expenses incurred for damage assessments. Punitive damages are expressly excluded.

#### **Article 11 - Remedy and Jurisdiction**

1. A data subject who has suffered damages as a result of the DATA IMPORTER's breach of its obligations under these Rules, shall have the right to:
  - a. seek non-judicial remedies; or
  - b. lodge a complaint for damages before the courts of the country in which the DATA IMPORTER has an establishment; or
  - c. lodge a complaint for damages before the courts of the country in which the data subject has habitual residence, unless the DATA IMPORTER is a public authority acting in the exercise of its public power.
2. Where a EUROCONTROL staff member has suffered damages as a result of the DATA IMPORTER's breach of its obligations under these Rules, EUROCONTROL shall enter into negotiations with the DATA IMPORTER on behalf of the data subject with a view to resolving any potential claims for damages. If the Parties cannot reach an agreement that effectively remedies the breach within three (3) months, the DATA IMPORTER shall accept the decision of the data subject under paragraph 1.

#### **Article 12 - Non-compliance and suspension of the transfer**

1. The DATA IMPORTER shall promptly inform EUROCONTROL if it is unable to comply with these Rules for whatever reason, including if the DATA IMPORTER has reason to believe that it is or has become subject to laws or practices not in line with these Rules.
2. Following a notification pursuant to paragraph 1, EUROCONTROL shall promptly identify appropriate technical or organisational measures to be adopted by EUROCONTROL and/or the DATA IMPORTER to address the situation. EUROCONTROL shall suspend the data transfer if it considers that no appropriate safeguards can be ensured until compliance is again ensured or the agreement underlying the data transfer is terminated.

3. If the breach has not been remedied within thirty (30) days of it coming to EUROCONTROL's attention, EUROCONTROL shall have the right to terminate the agreement which provides the basis for the transfer of personal data to the DATA IMPORTER.



**ANNEX IV**  
**Rules of Procedure of the EUROCONTROL Data Protection Supervisory Board**

**Article 1 - Designation of members**

1. The procedure for the designation of the members and alternates of the Data Protection Supervisory Board (the “Board”) is set out in Annex 1 to these Rules of Procedure.
2. Members and alternates shall not have a close relationship with a member of the staff of the Agency that could put their integrity and independence in doubt.

**Article 2 - Chairmanship**

1. The Board shall select its Chairperson by consensus from among its members. If a consensus cannot be reached, the decision shall be taken by a simple majority of the votes cast.
2. The Chairperson’s term of office shall be a renewable period of two years.
3. If the Chairperson resigns in the course of his/her term of office, his/her successor shall be designated, in accordance with the procedure set out in paragraph 1 above, for the rest of that term of office.
4. If the Chairperson is absent, the alternate of the Chairperson shall participate in the work of the Board and the Board members present shall designate one of them by consensus to chair the meeting.

**Article 3 - Secretariat**

1. EUROCONTROL shall provide the logistical support and services required for the proper functioning of the Board, including appropriate secretariat services.
2. The secretariat shall, inter alia:
  - a. register all complaints received from the data subjects;
  - b. convene Board meetings as necessary and prepare and ensure the timely distribution of the documentation for the meetings;
  - c. take minutes of Board meetings;
  - d. assist the Chairperson and keep an accurate summary record of the discussions at Board meetings;
  - e. manage communications with the Director General, the Data Protection Officer, the internal controller, the processor, the data subject or third parties as required;
  - f. prepare the Board’s conclusions and the products of its activities and ensure their timely transmission to the Director General, the data subject and the Data Protection Officer as appropriate;
  - g. manage the Board archives.
3. The Secretary to the Board shall exercise his/her functions and duties independently from other functions and shall operate with the appropriate level of independence from the Agency. In his/her duties for the Board, he/she shall report solely to the Chairperson and members of the Board. The Secretary and secretariat services shall perform their tasks in the strictest confidentiality in accordance with the Rules of Procedure of the Board and subject to the instructions of the Chairperson.

#### **Article 4 - Frequency and convening of meetings**

1. The Board shall meet ad hoc when necessary to fulfil its tasks under Article 24 of the Regulation and at least twice a year.
2. Meetings shall be convened by written notification sent by the Secretary on behalf of the Chairperson by post or electronic means subject to one month's notice. The notification shall be accompanied, if possible, by a provisional agenda.
3. In principle, the draft agenda shall be dispatched two weeks, and the working papers one week, before the meeting at the latest. The Board may refuse to examine documents dispatched after these deadlines.
4. Members and alternates shall confirm their participation or send apologies at the latest one week before the meeting date.
5. Meetings may also be held by means of teleconference.
6. No observers shall be admitted to Board meetings.

#### **Article 5 - Work programme and annual report**

1. The Board shall work in accordance with an annual work programme which it shall draw up and send for information to the Commission via the Provisional Council.
2. Within the framework of the tasks assigned to it under Article 24 of the Regulation, the Board may adapt the initially agreed annual work programme as required.
3. The Board shall submit an annual activity report to the Commission via the Provisional Council.
4. A copy of the annual work programme and of the annual activity report shall be sent to the Director General and the Data Protection Officer.

#### **Article 6 - Conduct of activities**

1. The Organisation shall provide the Board with such resources as is necessary for its functioning. The activities of the Board shall be financed by the budget of the Agency. The Board may report to the Commission if it deems that the funds provided are insufficient to enable it to carry out its tasks.
2. The products of the Board's activities pursuant to Article 24.c to h of the Regulation shall be transmitted to the Director General. The Board shall keep the Data Protection Officer in copy of all email transmissions of such products.
3. The products of the Board's activities shall be signed by the Chairperson. They shall reflect the opinion of the Board as a whole. A member may, however, request that express mention be made of a reservation or a different point of view.
4. The Board shall bring to the attention of the Commission any data protection matters it deems necessary via the Provisional Council.
5. The Board shall report as appropriate on the status of implementation of previous recommendations by the Agency.
6. The Board members may exchange in writing as they consider appropriate prior to the meetings and before decisions are taken in accordance with Article 9 below.
7. A member who finds him/herself in a situation of conflict of interest related to a specific decision or action shall declare it to the Chairperson of the Board. The Chairperson shall assess the situation and may request that the member refrain from participating in the decision or discussions giving rise to the conflict of interest. If the member is excluded, the alternate of that member shall participate in the work of the Board in order to replace the member in a situation of conflict of interest.

8. Where the Chairperson finds him/herself in a situation of conflict of interest, he/she shall be replaced by an alternate Chairperson selected, in accordance with Article 2.4 above, to review the case giving rise to the conflict of interest.

#### **Article 7 - Audit activities relating to personal data protection**

1. The Board shall include in its work programme any audit it may wish to undertake during the year in question. The Board may decide to undertake additional audits if the circumstances so require.
2. In its audit and investigation activities, the Board may be supported by external data protection audit experts. The selection process for the appointment of these experts shall be carried out in accordance with the Contract Regulations of EUROCONTROL.
3. When benefiting from external audit support, the Board shall not devolve responsibility for the recommendations it shall make or the reports it shall send to the Commission via the Provisional Council.
4. The audit and investigation reports of the Board shall provide adequate background information on the data processing audited and the objectives and scope of the audit. The findings, implications and recommendations shall be clearly stated.
5. The Board's audit reports shall be submitted to the Agency for comment before being submitted to the Commission. The Agency's comments shall be reflected in the final version of the report. The Director General and the Data Protection Officer shall receive a copy of the final version of the report.
6. The investigation reports shall be sent to the Director General and the Data Protection Officer.

#### **Article 8 - Handling of data subject complaints**

1. The Board shall handle complaints submitted by data subjects pursuant to Article 25 of the Regulation.
2. The Board shall handle complaints submitted in writing, including in electronic form, in English or French.
3. A complaint to the Board may relate to the processing of personal data by EUROCONTROL only. The processing of personal data by a public or private entity of a EUROCONTROL Member State does not fall within the Board's competence.
4. Complaints submitted to the Board shall include the following:
  - a) the name of the EUROCONTROL internal data controller against whom the data subject wishes to lodge a complaint (if known);
  - b) the contact details of the data subject submitting the complaint; anonymous complaints shall not be accepted;
  - c) the reason for the complaint, in other words, why the complainant considers that EUROCONTROL has mishandled his/her personal data;
  - d) the measures which, in the complainants' view, EUROCONTROL should take to remedy the situation;
  - e) whether the matter has already been settled, or is pending, before another Agency body, the ILOAT (if the complainant is a EUROCONTROL staff member) or an arbitration court (if the complainant is not a EUROCONTROL staff member);
  - f) evidence that the complainant has already contacted the Data Protection Officer and that the complainant has given him/her reasonable time to reply.

5. The Board shall suspend the investigation of a complaint pending a decision by another Agency body, by the ILOAT (if the complainant is a EUROCONTROL staff member) or by an arbitration court (if the complainant is not a EUROCONTROL staff member) to which a complaint has been submitted on the same matter.
6. For each complaint, the Board shall nominate a rapporteur, who will prepare a preliminary report containing an admissibility check and, if the complaint is admissible, an analysis of the relevant issues of fact and of law raised by the complaint and proposals as to whether clarifications are required from the Data Protection Officer, the internal controller, the processor or the data subject. The preliminary report must be finalised within a reasonable time frame in view of the circumstances and content of the complaint.
7. Once finalised, the preliminary report shall be distributed to the Board members by the secretariat, which shall convene a meeting of the Board on behalf of the Chairperson. The date of the meeting may be agreed by the members upon receipt of the complaint and a first assessment of the case.
8. During the meeting, the Board shall reach a decision in accordance with Article 9 below. The rapporteur shall draft the conclusions of the Board which, once approved by all the members, shall be promptly communicated to the data subject, the Director General and the Data Protection Officer.
9. If the Board is not be in a position to reach a decision within 60 days of receipt of the complaint, the Secretary of the Board, after consulting the rapporteur and the Chairperson, shall inform the data subject, prior to the expiry of that period, of the progress of the complaint procedure.
10. In making its conclusions, the Board shall take into account:
  - a. the nature and gravity of the alleged violations of the Regulation;
  - b. the importance of the damage that one or more data subjects have or may have suffered as result of the violation;
  - c. the exact date on which the underlying events occurred, on which the conduct in question ceased to have any effect, on which the effects were removed or on which an appropriate guarantee of such removal was provided.
11. Where appropriate, the Board shall facilitate an amicable settlement of the complaint.

### **Article 9 - Voting procedures**

1. Decisions shall be taken at Board meetings by a simple majority of votes, each member having one vote.
2. Where the member and his/her alternate both attend a meeting of the Board, only the member shall vote.
3. In case of absence of a member, his/her alternate shall sit on the Board and vote as a full member.
4. Decisions shall only be valid when all members have cast a vote.

### **Article 10 – Correspondence**

All correspondence sent to the Board shall be addressed to the Chairperson of the EUROCONTROL Data Protection Supervisory Board at the Organisation's Headquarters at rue de la Fusée 96, 1130 Brussels, Belgium, care of the Secretary or by email to [dpsb.sec@eurocontrol.int](mailto:dpsb.sec@eurocontrol.int).

### **Article 11 - Languages**

The working languages of the Board shall be French and English, which are the working languages of the Agency. Fluency in one of these languages is therefore a prerequisite for Board membership.

### **Article 12 - Reimbursement of expenses**

The members and alternates of the Board shall receive no salary, fee or honorarium from the Agency. However, they shall be reimbursed by the Agency for the travel expenses incurred in the performance of their functions in accordance with the mission rules of EUROCONTROL.

## ANNEX 1 TO THE RULES OF PROCEDURE

### PROCEDURE FOR THE DESIGNATION OF THE MEMBERS OF THE DATA PROTECTION SUPERVISORY BOARD

In accordance with the rotation system provided for in Article 23.3 of the Regulation, the following procedure for the designation of the members of the Board and their alternates shall apply:

#### 1. Designation of candidates – Timetable

Members and alternates of the Board shall be designated for a term of office of three (3) years, starting on 1 July, except for the first term, for which they shall be designated as follows:

- the first member and his/her alternate shall be designated for a term of one (1) year;
  - the second member and his/her alternate shall be designated for a term of two (2) years;
  - the third member and his/her alternate shall be designated for a term of three (3) years.
- Each Member State contacted shall designate two (2) persons: one as a member and the other as his/her alternate.

#### Target dates

In order to facilitate transmission of experience and continuity in the Board's work, the members of the Board shall be designated early enough to allow a reasonable overlap with the outgoing team. To this purpose, the nominating Members States concerned shall communicate the names of the new members to the secretariat before the month of May preceding the start of their term of office. This will allow the incoming members to be invited to attend a handover meeting with the former Board team in June.

#### Procedure

The Members States concerned shall be contacted, according to the French alphabetical order of the signatories of the revised Convention, at the latest six months before the expected date of rotation and invited to designate new Board members.

These States shall reply within a month and confirm whether they accept to take up these duties and to designate a member.

- If the State concerned agrees to do so, it shall undertake all actions necessary to enable the designation of the member before 30 April.
- If a State is unable to accept these duties, it shall inform the President of the Provisional Council as a matter of urgency so that the latter can contact the next State on the French alphabetical list.

If a member of Board does not complete his/her full term of office and if his/her alternate cannot replace him/her, the Member State concerned shall immediately designate a new member for the rest of this term.

#### 2. Selection criteria

The members and alternates of the Board shall be personal data protection experts, having the necessary skills and sufficient availability to personally carry out and monitor the tasks under Article 24 of the Regulation.

In particular, it shall be essential that members have the following qualifications/experience:

- relevant academic background, such as a degree in law, information technology, cybersecurity, or a related field;
- significant and recent experience in the field of personal data protection;
- comprehensive understanding of personal data protection laws and regulations;

- fluency in English or French;
- experience of working in/with international organisations is desirable.

In order to avoid potential conflicts of interest, at least one of the experts designated by the Member State as member or alternate shall be independent from the civil aviation authorities (CAAs) and the air navigation service providers (ANSPs) of the EUROCONTROL Member States. Ideally, one of the two experts designated by the Member State as member or alternate should come from the State's personal data protection supervisory authorities as this will ensure independence and knowledge of personal data protection best practices and principles for the functioning of the Board.