

EUROPEAN ORGANISATION FOR THE SAFETY OF AIR NAVIGATION

EUROCONTROL

- Measures of the Permanent Commission –

MEASURE No 06/129

concerning the approval of a EUROCONTROL Regulation on Personal Data Protection

THE PERMANENT COMMISSION FOR THE SAFETY OF AIR NAVIGATION:

Having regard to the EUROCONTROL 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, and in particular Article 6.1 (b) and 7.3 thereof;

Having regard to Article 13.3 (d) of the Statute of the Agency, which provides that in conformity with the policies adopted by the Commission, the Director General shall draw up and submit for the Commission's approval a Regulation on personal data protection;

On the proposal of the Agency and of the Provisional Council;

HEREBY TAKES THE FOLLOWING MEASURE:

Sole article

The Regulation on Personal Data Protection at Annex is hereby approved.

Done at Brussels on **28 12 06**

For the President of the Commission,



B. KVASNICA

Vice-President of the Commission

EUROCONTROL Regulation on Personal Data Protection

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

With a view to ensuring respect for the principles relating to the protection of personal data, notably the right to privacy, principles of protection of individuals and the principle of transparency;

Whereas a fair balance should be created between individual rights on the one hand and security and public safety on the other hand;

Whereas a fair balance should be created between the national regimes regarding personal data protection and this internal EUROCONTROL regulation;

The Commission approves the following Regulation on personal data protection:

Article 1 Scope

The provisions of the present Regulation shall apply to the processing of personal data wholly or partly by automatic means, to the processing otherwise than by automatic means of personal data which form part of a filing system or are intended to form part of a filing system.

Article 2 Definitions

For the purposes of this Regulation:

- a) “personal data” shall mean any information relating to an identified or identifiable natural person (“data subject”); an identifiable person is one who can be identified, directly or indirectly, in particular by reference to an identification number or to one or more factors specific to his physical, physiological, mental, economic, cultural or social identity;
- b) “processing of personal data” (“processing”) shall mean any operation or set of operations which is performed upon personal data, whether or not by automatic means, such as collection, recording, organisation, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, blocking, erasure or destruction;
- c) “personal data filing system” (“filing system”) shall mean any structured set of personal data which are accessible according to specific criteria, whether centralised, decentralised, or dispersed on a functional or geographical basis;
- d) “third party” shall mean any natural or legal person, public authority, agency or any other body other than the data subject, and the persons who are authorised to process the data;
- e) “recipient” shall mean a natural or legal person, public authority, agency or any other body 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 shall not be regarded as recipients;
- f) “the data subject’s consent” shall mean any freely given specific and informed indication of his wishes by which the data subject signifies his agreement to personal data relating to him being processed.

Article 3 Conditions for the processing of personal data

1. The processing of personal data may only be carried out in accomplishment of the internal administrative tasks necessary to the Organisation or in the exercise of its tasks and functions provided for in the Convention, its Annexes and other texts governing the Organisation.
2. Personal data collected exclusively for ensuring the security or the control of the processing systems or operations shall not be used for any other purpose, with the exception of the prevention, investigation, detection and prosecution of serious criminal offences or activities suspected to jeopardise the safety and security in relation to air traffic.

Article 4 Data quality

Personal data must be:

- a) processed fairly and lawfully;
- b) collected for specified, explicit and legitimate purposes in the framework set out in article 3 and not further processed in a way incompatible with those purposes;
- c) adequate, relevant and not excessive in relation to the purposes for which they are collected and/or further processed;
- d) accurate and, where necessary, kept up to date; every reasonable step must be taken to ensure that inaccurate or incomplete data are erased or rectified;
- e) kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the data were collected or for which they are further processed.

Article 5 Excluded data

Personal data revealing racial or ethnic origin, political opinions, trade union membership, religious or other beliefs, or concerning sex life, may not be collected or processed. Personal data may not be processed if the data subject's privacy or fundamental right would thereby be violated, unless:

- a) the data subject has given his explicit consent to the processing of data;
- b) processing is necessary to protect the vital interest of the data subject.

Article 6 Transmission of personal data

1. The disclosure by transmission, dissemination or otherwise making available of personal data to recipients, including the authorities or corporatised or privatised bodies of the Contracting Parties in charge of air traffic services as well as other relevant national authorities and international organisations, shall be governed by the following provisions:

- a) personal data may only be transmitted to the appropriate recipient. Further transmission by this recipient to other recipients is subject to the prior consent of the original transmitting body;
 - b) the recipient may only process the data for the purposes set out in Article 3 or under the conditions specified by the transmitting body;
 - c) the recipient shall, upon request, inform the transmitting body of the measures taken to protect the transmitted data in compliance with the purposes and conditions specified by it at the time of transmission.
2. The Director General shall establish further conditions for the transmission of personal data to recipients, taking into account the sensitivity of the data.

Article 7 Data security

The person or body responsible for a particular personal data filing system including the recipient shall ensure that the quality of the data and its processing are in accordance with the provisions in article 4 of the present Regulation and that the data are protected against accidental or non-authorized destruction or loss, as well as against non-authorized access, modification or transmission. In particular, the systems in which data are stored shall be technically and logistically secured.

Where personal data are processed by automated means, reasonable measures shall be taken to ensure that it will subsequently be possible to check which personal data have been processed, at what times and by whom.

Article 8 Data Protection Officer

1. The observance of the personal data protection principles and provisions is ensured by a Data Protection Officer appointed by the Director General.
2. The Data Protection Officer is independent and is bound to secrecy.
3. The Data Protection Officer shall in particular:
 - monitor the correct application of the data processing systems by which personal data are processed; to this effect he is to be kept timely informed about any projects concerning the processing of personal data by automatic means;
 - brief the persons processing personal data on the provisions of this regulation;
 - assist as an adviser in the selection of the persons processing personal data;
 - bring to Director General's attention any proposals for improvement of the data protection system;
 - submit an annual activities report to the Director General;
 - keep a data protection register, which shall list:
 - a) all filing systems and the following particulars of them:
 - (i) the name of the person or body responsible for the filing system,
 - (ii) the nature of the personal data held,
 - (iii) the procedures for alteration, erasure and maintenance;

- b) all programmes for processing personal data as also the following particulars for each programme:
 - (i) the purpose of the processing operation, and the organizational unit responsible,
 - (ii) the nature of the personal data being processed,
 - (iii) the name of the person or body responsible for the programme,
 - (iv) all persons with authorised access to the programme and any restrictions,
 - (v) measures to protect against unauthorised access.
4. The Data Protection Officer enjoys full co-operation from the Agency in the performance of his functions.

Article 9 The data subject's rights

1. The data subject is granted, free of charge, access to all data concerning him and, as appropriate the right of rectification, erasure or blocking of data the processing of which does not comply with the provisions of this Regulation, in particular because of the incomplete or inaccurate nature of the data. The data subject also has a right of notification of rectifications to third parties to whom the data have been disclosed.
2. Exceptions can be made in the case of compelling reasons of confidentiality or in the public interest.

Article 10 Application to the Data Protection Officer

1. Any data subject may apply to the Data Protection Officer for advice on data protection matters or if he has reason to believe that a unit has infringed his rights in the course of processing his personal data. The Data Protection Officer shall conduct an investigation.
2. If the Data Protection Officer finds that the data protection provisions have been infringed or that there are other deficiencies in the processing of personal data, he shall invite the person responsible to comment within a period he shall specify. The Data Protection Officer shall make proposals for eliminating the deficiencies noted. No comment shall be required in the case of minor deficiencies which have been eliminated. In case of major infringements of these provisions or failure to eliminate the deficiencies complained of, the Data Protection Officer shall notify the Director General.

Article 11 Disciplinary Measures

An official or servant in breach of his obligations under this Regulation, shall be liable to disciplinary measures in accordance with the provisions of Articles 88 to 91 of the Staff Regulations governing officials of the EUROCONTROL Agency and Articles 87 to 90 of the General Conditions of Employment governing servants at the EUROCONTROL Maastricht Centre.

Article 12 Final Remarks

This Regulation is addressed to the Agency and its staff, and, where applicable, to the Member States of the Organisation. It enters into force on the date of its publication.