

INFORMATION ON THE PROCESSING OF PERSONAL DATA FOLLOWING THE SUBMISSION OF AN APPLICATION FOR TEMPORARY PROTECTION TO THE IMMIGRATION OFFICE

1. INTRODUCTION:

The Directorate General of the Immigration Office attaches great importance to the protection of personal data. Through this information, the Immigration Office wishes to inform the applicant for temporary protection what personal data are processed, how they are processed, how long they are kept and what rights the applicant can exercise in this context.

This document is prepared in accordance with Article 13 of the Regulation of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (hereinafter the GDPR).

2. DEFINITIONS:

"Personal data": any information relating to an identified or identifiable natural person ("the data subject"); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier, or to one or more factors specific to physical, physiological, genetic, mental, economic, cultural or social identity of that natural person.

"Processing": 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;

"Controller": a natural or legal person, public authority, agency or other body which, alone or jointly with others, determines the purposes and means of the processing of personal data.

"Recipient": a natural or legal person, public authority, agency or another body, to which the personal data are disclosed, whether a third party or not.

"Third Countries": all countries outside the EU, except those in the European Economic Area or EEA (Norway, Liechtenstein and Iceland).

"EU Platform": the database for the registration of beneficiaries of temporary protection set up by the European Commission on May 31, 2022 that allows Member States to exchange information on beneficiaries of temporary protection on their territory in order to avoid multiple registrations.

3. THE CONTROLLER:

The data controller in the context of submitting an application for temporary protection is the Secretary of State for Asylum and Migration, represented by the Director General of the Directorate General of the Immigration Office.

The contact details of the controller are as follows:

Service public fédéral Intérieur
Direction générale Office des étrangers
Boulevard Pacheco 44
1000 Bruxelles
Phone number: +32 2 488 80 00
<https://dofi.ibz.be/eng>

4. LAWFULNESS OF THE PROCESSING OF YOUR PERSONAL DATA

The personal data collected in the context of submitting your application for temporary protection are necessary not only to comply with a legal obligation to which the Immigration Office is subject but also, in general, to carry out a mission of public interest or a mission relating to the exercise of public authority with which the Immigration Office is entrusted, i.e.: the application of international, European and Belgian migration legislation, the main texts of which are the following:

- Council Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof;
- Act of 15 December 1980 on access to the territory, residence, settlement and removal of foreigners;
- Royal Decree of 8 October 1981 on access to the territory, residence, settlement and removal of foreign nationals.

5. PURPOSES OF PROCESSING YOUR PERSONAL DATA:

Your personal data, collected when you apply for temporary protection, are processed for the following purposes:

- to identify you;
- to verify your access to the Schengen Area and the Kingdom of Belgium;
- to ensure the treatment of your application for temporary protection;
- to ensure the follow-up of your stay on the territory of the Kingdom of Belgium;
- to defend the Kingdom of Belgium before the courts, where you can appeal against decisions taken against you by the Immigration Office;
- to investigate, record and follow up criminal and administrative offences provided for in particular in the legislation on access to the territory, residence, establishment and removal of foreigners, as well as in the legislation on the employment of foreign workers.
- To exchange information between Member States via the EU platform about the beneficiaries of temporary protection on their territory, in order to avoid multiple registrations.

6. RECIPIENTS OF YOUR PERSONAL DATA:

The personal data collected and processed by the Immigration Office in the context of submitting your application for temporary protection may be communicated to the following categories of recipients:

- the Federal Agency for the Reception of Asylum Seekers ("Fedasil") in the context of a possible request for emergency reception or to accompany you in the context of voluntary return;
- Belgian municipalities in order to identify you and process your application for temporary protection;
- lawyers appointed by the Immigration Office to defend the Belgian State before the courts where you can lodge an appeal against decisions taken against you by the Immigration Office;
- the administrative courts (including the Council for Alien Law Litigation Council and the Council of State) and the judicial courts in order to defend the Belgian State in the context of appeals that you may lodge against decisions taken against you by the Immigration Office;
- for unaccompanied foreign minors, the Guardianship Service of the Federal Public Service of Justice for the determination of your age, the recognition of your status as an unaccompanied foreign minor and the appointment of a possible (provisional) guardian;
- the police in order to identify you;
- the Federal Ombudsman in the context of his competence to investigate complaints about federal public services;
- other EU Member States applying Council Directive 2001/55/EC of 20 July 2001 in the context of a possible temporary protection procedure lodged with another Member State.

7. HOW LONG YOUR PERSONAL DATA WILL BE KEPT :

With regard to the retention period of your personal data, a distinction must be made between biometric data, personal data processed in the EU platform, and other collected data:

- Biometric data are processed to establish the identity of the applicant. After a period of ten years, they are destroyed;
- The personal data held in the EU Platform shall not be kept for longer than the existence of the mass influx of displaced persons, as declared by Council Implementing Decision (EU) 2022/382 of 4 March 2022 establishing the existence of a mass influx of displaced persons from Ukraine within the meaning of Article 5 of Directive 2001/55/EC, and having the effect of introducing temporary protection;
- With regard to other personal data, unless otherwise specified, in application of Articles 1 and 5 of the Archives Act of 24 June 1955, they are kept for a period of seventy-five years in accordance with the instructions given by the State Archives. After this period of seventy-five years, the data shall either be transferred to the State Archives or destroyed after authorization by the General Archivist of the Kingdom.

8. TRANSFER OF YOUR PERSONAL DATA TO THIRD COUNTRIES:

Within the framework of its missions, the Immigration Office may be required to transfer parts of your personal data to countries outside of the European Union.

The Immigration Office shall ensure, where possible, to include clauses allowing an adequate level of protection for your personal data in the agreements with third countries. Those agreements can be requested from the Immigration Office's DPO.

In the absence of an adequacy decision and if it is not possible to conclude agreements allowing an adequate level of protection for your personal data, the Immigration Office may, nevertheless, exceptionally submit some of your personal data to third countries, because the implementation of the European and national migration policy is an important ground of public interest as referred to in Article 49 of the GDPR.

With regard to the possible transfer of personal data to the Ukrainian competent authority, the Immigration Office relies on the Readmission Agreement between the European Community and Ukraine, published in the Official Journal of the European Union on December 18, 2007.

9. DATA PROTECTION OFFICER AND EXERCISING YOUR RIGHTS REGARDING THE PROTECTION OF YOUR PERSONAL DATA

The Data Protection Officer (hereinafter the "DPO") is the person within the Directorate General Immigration Office whom you can contact for any question relating to the processing of your personal data and the exercise of your rights under the GDPR. These include the right of access, the right to rectification, the right to erasure, the right to restrict processing, the right to data portability and the right to object.

These rights concern the data under the direct management of the Immigration Office as well as the data that the Immigration Office registers on the EU platform. If rights are exercised vis-à-vis the Immigration Office with regard to personal data that have been uploaded to the EU platform by another Member State, the Immigration Office will forward the request of the person concerned to the Member State responsible for this data.

Exercising these rights is in principle free of charge. However, in the event of manifestly unfounded or excessive requests, the Immigration Office may either charge a reasonable fee or refuse to comply with the request.

9.1. RIGHT OF ACCESS:

You have the right to obtain confirmation as to whether your personal data are being processed by the Immigration Office, and if so, to inspect those personal data and the information referred to in Article 15 of the GDPR. You also have the right to obtain a copy of the personal data being processed.

9.2. RIGHT TO RECTIFICATION:

The Immigration Office must process data "correctly". In view of this obligation, you have the right to immediately obtain rectification of incorrect personal data concerning you from the Immigration Office. Taking into account the purposes of the processing, you have the right to have incomplete personal data completed.

9.3. RIGHT TO RESTRICT PROCESSING:

In the following cases, you have the right to restrict the processing of your personal data:

- When you dispute the accuracy of the personal data, for a period of time that enables the Immigration Office to verify the accuracy of the data; or
- When the processing is unlawful and you object to the erasure of your personal data and request the restriction of their processing instead; or
- When the Immigration Office no longer needs the personal data for processing purposes, but you need them for the establishment, exercise or defense of legal claims; or
- When you have objected to the processing of your personal data, in accordance with Article 21, paragraph 1, pending the verification whether the legitimate grounds of the Immigration Office outweigh the legitimate grounds relating to you.

Where processing has been restricted, your data may, with the exception of storage, only be processed with your consent or for the establishment, exercise or defence of legal claims, or for the protection of the rights of another natural or legal person, or for important reasons of public interest of the European Union or one of its Member States.

9.4. RIGHT TO ERASURE ("RIGHT TO BE FORGOTTEN"):

Since the processing of your personal data is necessary for the performance of a task of general interest or of a task in the exercise of official authority entrusted to the Immigration Office, you do not have the right to erase your personal data, unless you can demonstrate that this data has been unlawfully processed.

9.5. RIGHT TO OBJECT:

You have the right to object to the processing of your personal data by the Immigration Office at any time for reasons relating to your particular situation. However, the Immigration Office may object if there are compelling legitimate grounds for the processing that outweigh your interests, rights and freedoms or for the establishment, exercise or defence of legal claims.

9.6. RIGHT TO DATA PORTABILITY:

Since the Immigration Office does not process your personal data on the basis of your consent or in execution of an agreement, the right to portability does not apply. Therefore, you do not have the right to receive your personal data from the Immigration Office in a structured, commonly used and machine-readable format for the purpose of transferring it to another controller.

9.7. Contact details of the DPO:

The DPO's contact details are:

Service public fédéral Intérieur

Direction générale Office des étrangers

À l'attention du Délégué à la protection des données

Boulevard Pacheco 44

1000 Bruxelles

E-mail: dpo.dvzoe@ibz.fgov.be

Phone number : +32 2 488 80 00

Form available on the website of the SPF Intérieur: <https://www.ibz.be/fr/comment-exercer-vos-droits>

10. COMPLAINTS TO THE DATA PROTECTION AUTHORITY :

If you believe that the Immigration Office has not processed your personal data in accordance with the provisions of the GDPR and/or the provisions of the relevant Belgian legislation, you have the right to lodge a complaint with the Data Protection Authority (hereinafter: "DPA").

The contact details of the DPA are as follows:

Autorité de protection des données

Rue de la Presse, 35

1000 Bruxelles

E-mail: contact@apd-gba.be

Phone number : +32 2 274 48 00