

## **SHEET 0**

# **INFORMATION ON THE PROCESSING OF PERSONAL DATA WHEN A RESIDENT IS DETAINED, PLACED AT THE DISPOSAL OF THE GOVERNMENT OR HELD, PURSUANT TO THE PROVISIONS CITED IN ARTICLE 74/8 OF THE LAW OF 15 DECEMBER 1980 ON THE ENTRY TO THE TERRITORY, RESIDENCE, SETTLEMENT AND REMOVAL OF FOREIGN NATIONALS**

### **WHAT IS PERSONAL DATA?**

Personal data is information relating to an identified or identifiable living person. Various pieces of information, the combination of which makes it possible to identify a particular person, also constitutes personal data.

Personal data that has been anonymised, encrypted or pseudonymised, but can be used to re-identify a person still constitutes personal data and is covered by *Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of individuals with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation)*, hereinafter referred to as "GDPR". Personal data rendered anonymous in such a way that the individual is not or no longer identifiable is no longer personal data.

The GDPR protects personal data regardless of the technology used to process that data. The legislation also protects data regardless of the method used to store it - in a computer system, through video surveillance or on paper. In all cases, personal data is subject to the protection requirements set forth in the GDPR.

A first and last name, postal address, email address, fingerprint, Internet Protocol (IP) address or data held by a doctor that would uniquely identify a person constitute personal data.

### **WHAT IS THE PROCESSING OF PERSONAL DATA?**

It is any operation or set of operations 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.

### **WHO IS THE DATA CONTROLLER OF YOUR PERSONAL DATA?**

The data controller of your personal data is the Minister responsible for the Entry to the Territory, Residence, Settlement and Removal of Foreign Nationals, represented by the Director General of the Immigration Office.

*The contact details of the controller are as follows:*

**WHAT PERSONAL DATA IS PROCESSED?**

- Personal data that allows you to be identified: your first name and surname, your date and place of birth, your nationality or nationalities, any aliases, your gender, your IO number, your centre number, your postal address, your personal records, your household composition (marriage or current form of cohabitation, marital history, details of other family or household members), your photo, your fingerprint, the identity documents in your possession;
- Personal data that allow us to organise your daily life during your stay in a detention centre: your religious or philosophical beliefs, the language(s) spoken, your lawyer's professional contact details, your use of the computer network, including your use of the Internet, your participation in the activities organised by the centre, your diet, leisure activities and interests (hobbies, sports, other interests);
- "Administrative" data relating to your stay: the procedures in progress, the history of your journey, the type of residence application submitted, the date of submission, your statements and any documents or papers you have regarding your identity, your nationality(ies), your age, your background, including those of the family members to be taken into account, the country or countries as well as the place or places where you have previously resided, for example in the context of an application for international protection, the date and time of arrival in the centre, the date, title and period of detention, the date of interception, the status, the previous centre, your lasting ties in Belgium, your reasons for refusing to return, the start and end date and the reasons for detention, your criminal record, the ban on entry;
- Data related to your health: your physical and mental health, your medical parameters, the diagnosis or suspicion, your history, the reason for a consultation request, the date of care, the prescribed treatment, the hunger strike (start date, follow-up and reason, medical parameters), the result of your antigen test, your medication intake, the monitoring of your pregnancy (number of weeks of pregnancy, medical certificate confirming the pregnancy, results of blood tests, ultrasounds, prescribed treatment);
- Psychological data: opinions about personality or character;
- Data on social life;
- Escape data: your escape report, the number of escapees, your physical description;
- Data related to legal assistance: your income, the category of legal assistance, the reason for the application;
- Data related to your luggage and personal effects: the inventory of your possessions (including the amount of money deposited);
- Data related to the application of the disciplinary system: events and monitoring during segregation, information related to your behaviour;
- Data related to your removal: the transfer, the planned repatriation date, your destination airport, receipt of travel provisions, details of a contact person, possible risks, type of return (voluntary, with or without escort), your health status (medical opinion on medical condition, medical opinion on transport, specific needs, psychological or psychopathic problems, vulnerable profile);
- Data relating to the visit: the day and time of the visit, the duration of the visit, the reason for the visit, the type of visit, if applicable your degree of relationship with the visitor;

- Camera images: the building is equipped with security cameras whose images are processed in accordance with the Law of 21 March 2007 regulating the installation and use of surveillance cameras.

#### **WHY DO WE COLLECT YOUR PERSONAL DATA?**

Your personal data is processed for the following purposes:

- to identify you;
- to process your residence application;
- access to the Schengen territory and the Kingdom of Belgium;
- to follow up your stay in the territory of the Kingdom, including holding in a detention centre and removal from the territory of the Kingdom;
- to investigate, identify and follow up criminal and administrative offences provided for, in particular, in the legislation on entry to the territory, residence, settlement and removal of foreign nationals and in the legislation on the employment of foreign workers;
- to manage litigation against decisions made.

More specifically, your personal data is processed in the detention centre for the following purposes:

- the organisation of day-to-day life in the context of your stay in the detention centre (recreational, cultural and sports activities, diet, visits, purchase of a SIM card, worship, individual complaints by the occupants, etc.);
- medical, psychological, legal and social assistance;
- the enforcement of the disciplinary system;
- your identification within the centre;
- the creation of a "resident" file;
- the management of your luggage and personal effects;
- the identification of an unaccompanied foreign minor;
- compliance with general safety rules, such as good order and calm in the centre and fire safety;
- public health protection in detention centres;
- ensuring the security of the computer network of the Immigration Office.

#### **WHAT IS THE LEGAL BASIS FOR PROCESSING PERSONAL DATA?**

The legal bases for the processing of your personal data are:

- the Law of 15 December 1980 on the entry to the territory, residence, settlement and removal of foreign nationals;
- the Royal Decree of 2 August 2002, establishing the regime and operating rules applicable to places located on Belgian territory, managed by the Immigration Office, where a foreigner is detained, placed at the disposal of the Government or held, in application of the provisions cited in Article 74/8, paragraph 1, of the Law of 15 December 1980 on the entry to the territory, residence, establishment and removal of foreign nationals;
- the Law of 13 June 2005 on electronic communications;
- the Law of 21 March 2007 regulating the installation and use of surveillance cameras.

#### **WHAT ARE YOUR RIGHTS REGARDING THE PROCESSING OF YOUR PERSONAL DATA?**

These are the rights of access, rectification, restriction, deletion, opposition and portability.

The exercise of these rights is, in principle, free of charge. However, in the event of manifestly unfounded or excessive requests, the Immigration Office may require the payment of a reasonable fee or refuse to process your request.

- Right of access

You have the right to ask the Immigration Office whether it processes personal data about you. If it does, you have the right to request a copy of the data and to obtain information about the purposes of the processing, the categories of recipients to which the data has been communicated, the duration of data storage and the sources of the data (if it has not been collected from you).

- Right of rectification

The Immigration Office is obliged to process accurate data and to take the necessary steps to rectify it, if necessary. In view of this obligation, you have the right to request and obtain from the Immigration Office the rectification of any inaccurate personal data concerning you.

- Right to restriction

In the following cases, you have the right to request and obtain from the Immigration Office the restriction of the processing of your personal data:

- a. when you dispute the accuracy of your personal data for a period of time that allows the Immigration Office to verify the accuracy of the data; or
- b. where the processing is unlawful and you object to the erasure of your personal data and instead request the restriction of its processing; or
- c. if the Immigration Office no longer needs your personal data for processing purposes, but it is still required for the challenge, exercise or defence of your legal rights.

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 in the European Union or one of its Member States.

- Right to erasure ("right to be forgotten")

Given that the processing of your personal data is necessary for the performance of a task falling under the exercise of official authority vested in the Immigration Office, you are not entitled to request and obtain the erasure of your personal data.

- 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 which override your interests, rights and freedoms or for the establishment, exercise or defence of legal claims.

- Right to data portability

Given that the Immigration Office does not process your personal data on the basis of your consent or in execution of a contract, the right to data portability does not apply. Consequently, you are not entitled to receive your personal data from the Immigration Office in a structured, commonly used and machine-readable format for transmission to another controller.

If you invoke the right of access, the right to rectification, the right to erasure, the right to restriction or the right to object, you will receive information on the measures taken in response to your request within

one month of receipt of the request. This period may be extended by two months in view of the complexity of your request and the number of ongoing requests. You will be informed of this extension of the response time.

If your request is not acted upon, you will be informed of the reasons for inaction no later than one month from the receipt of your request. You have the right to lodge a complaint with the supervisory authority and to seek legal redress.

#### **WHO HAS ACCESS TO YOUR PERSONAL DATA?**

Your personal data is mainly intended for the agents of the Immigration Office. However, your data may be communicated to the following categories of recipients:

- you and your legal representatives;
- your professional advisers (e.g. lawyers) or your legal representatives;
- other services attached to the Immigration Office: the Office of the General Commissioner for Refugees and Stateless Persons, municipal administrations, the Guardianship service in the context of identifying an unaccompanied foreign minor, Belgian diplomatic or consular posts abroad, etc.;
- the International Organization for Migration
- hospitals and pharmacies if you receive medical care;
- telephone operator when activating a SIM card;
- airport;
- prisons.

#### **HOW LONG IS PERSONAL DATA STORED?**

Your identification badge and the labels containing your identity will be destroyed as soon as you leave the centre.

The biometric data recorded on your arrival in a detention centre and the data found in the typed documents in your individual file and in the segregation reports are kept for ten years.

The data relating to your health collected and processed as part of your stay in a detention centre is kept for 30 years. After this 30-year period, the data will be destroyed after authorisation by the General Archivist of the Kingdom.

Other personal data is kept for a period of 75 years in accordance with the instructions given by the State Archives. After this 75-year period, the data will be either transferred to the State Archives or destroyed after authorisation by the General Archivist of the Kingdom.

#### **CAN YOUR PERSONAL DATA BE TRANSFERRED TO THIRD COUNTRIES?**

In the context of its tasks, the Immigration Office may transmit some of your personal data to countries outside the European Union. Your health data is not transferred.

The Immigration Office ensures, to the extent possible, that the agreements it concludes with third countries include clauses that ensure an adequate level of protection for your personal data. These agreements can be obtained from the Data Protection Officer (DPO) of the Immigration Office.

In the absence of adequacy decisions and the possibility of concluding agreements to ensure an adequate level of protection for your personal data, the Immigration Office may, nevertheless, exceptionally transmit some of your personal data to third countries, because the implementation of European and national migration policy is an important reason of public interest as referred to in Article 49 of the GDPR.

#### **WHO IS THE DATA PROTECTION OFFICER?**

The DPO is the person within the Immigration Office whom you can contact for any questions relating to the processing of your personal data and the exercise of your rights under the General Data Protection Regulation.

*The contact details of the DPO are as follows:*

*Federal Public Service Home Affairs - Directorate General Immigration Office*

*To the attention of the Data Protection Officer*

*Boulevard Pachéco 44, 1000 Brussels, Belgium*

*Email: [dpo.dvzoe\[at\]ibz.fgov.be](mailto:dpo.dvzoe[at]ibz.fgov.be)*

*Telephone: +32 2 793 80 00*

*Form available on the website of the FPS Interior: <https://ibz.be/>*

*You can also contact them through the Director of the Centre in which you are being held.*

#### **WHAT RECOURSE DO YOU HAVE?**

If you believe that the Immigration Office has not processed your personal data in accordance with the provisions of the General Data Protection Regulation and/or the Belgian legislation on this matter, you are entitled to lodge a complaint with the Data Protection Authority (DPA).

The contact details of the DPA are as follows:

*Data Protection Authority*

*Rue de la presse, 35*

*1000 Brussels, Belgium*

*[contact\[at\]apd-gba.be](mailto:contact[at]apd-gba.be)*

*+32 2 274 48 00*

*<https://www.dataprotectionauthority.be/citizen>*

**The filing of a complaint does not suspend the deportation measures that have been taken against you, nor their execution.**