

Protection of personal data in relation to Joint Deployment Plans (EFCA FIS-system)

Identity of controller:

European Fisheries Control Agency

Purpose of processing:

Following article 5 of Regulation (EC) No 1224/2009, MS have to ensure control, inspection and enforcement of activities carried out within the scope of the Common Fisheries Policy. The control and inspection activities are organised jointly in determined cases by Joint Deployment Plans (JDPs), adopted by the EFCA following the rules established in Chapter III of Regulation (EC) No 768/2005. JDPs are a tool to ensure cooperation and coordination of control activities between the Member States to ensure compliance with this objective.

To facilitate the implementation of the JDPs, there is a permanent exchange of information between the Member States and EFCA. This information may contain in certain cases personal information.

In particular, Union inspectors shall submit to EFCA a copy of the full inspection report which contains an alleged infringement as provided for by Article 123(3) of Commission Implementing Regulation (EU) No 404/2011.

The purpose of the processing is to ensure proper monitoring of compliance with the applicable EU legislation, sharing information to facilitate investigations and proceedings in cases of infringement, and facilitating the risk analysis for the inspection activities to be developed by the Member States authorities.

In the context of operational coordination, information on the positioning of fishing vessels, (VMS), catches and landing data, (ERS), concerning fishing activities carried out under JDPs are provided by Member States' authorities to EFCA and shared within the EFCA-FIS. Also inspection report information is exchanged and shared, through the EIR data system or through a paper document exchanged to view, search, analyse and produce statistics and reports.

In the case of the JDPs covering waters under the competence of Regional Fisheries Management Organisations (RFMOs) such as NAFO, NEAFC and ICCAT, EFCA has the mandate to send the inspection reports to the Flag State Authorities, to the European Commission and to the Executive Secretary of NAFO and NEAFC.

EFCA's Fishery Information System (FIS) consists of the full suite of operational applications which will be integrated within the new EFCA Enterprise Architecture (EFCA-EA). Currently, it includes the EFCA Vessel Monitoring System (EFCA-VMS), the EFCA Electronic Reporting and Recording System (EFCA-ERS), the EFCA Electronic Inspection Report System (EFCA-EIR), and the EFCA FISHNET digital, communication, collaboration and coordination platform (EFCA-FISHNET). The EFCA-FISHNET is that part of the EFCA FIS, where the access to the various applications will be managed.

EFCA will also make available some components applications within the EFCA FIS as SaaS (Software as a Service) products for use by Member State's. As part of this service, EFCA may permit a particular Member State to create and manage a dedicated space within a particular application(s) for its own specific purposes. The Member State would be able to avail of all of the application functionality and services to capture, store, analyse, and exchange data from within this dedicated space, whilst at the same time controlling who accesses the space. In essence, it becomes the Member State's system within the EFCA system. Currently it is planned to offer this service within the EFCA EIR and it may in the

future extend to other applications. SaaS products will be subject to SLAs between EFCA and the relevant Member State.

Data subjects:

Data Subject list as per Data Elements contained within Annex XII, Annex XXIII and Annex XXVII of Commission Implementing Regulation (EU) No 404/2011:

Vessel Master
Vessel Crew member(s)
Vessel Owner(s)
Vessel Beneficial Owner(s)
Vessel Owners Representative(s)
Vessel Charterer(s)
Vessel Agent(s)
Observer(s)
Transporter(s)
Driver(s)
Registered Buyer(s)
Inspector in charge
Inspector(s) other
Reporting Official(s)

Type of data processed:

Name, address and signature of the data subjects mentioned above.

Legal basis:

Processing is necessary for compliance with the following legal obligation of EFCA: The reception of data from Member States regarding position of vessels, catches and landings and inspection reports and the provision of access to Member States to this information for the purpose of operational coordination in the context of joint deployment plans is provided for by Art. 5(2), 13 and 16 of Council Regulation (EC) No 768/2005 and Art. 118(2), second sentence of Commission Implementing Regulation (EU) No 404/2011.

ERS and VMS exchange is also foreseen by the Specific Control and Inspection Programmes adopted by the Commission (Art. 11 of Commission Implementing Decisions 2014/156/EU, 2013/328/EU, 2013/305/EU) and the corresponding JDP adopted by EFCA.

In particular, the reception of inspection reports conducted by Union inspectors which contain an alleged infringement, is provided for by Article 123(3) of Commission Implementing Regulation (EU) No 404/2011.

The sending of inspection reports to the Executive secretary of NEAFC and to the flag states of the vessels is delegated by the European Commission in Article 7 of Commission Implementing Regulation (EU) No 433/2012.

Recipients of the data processed:

Within EFCA, access to personal data is limited to the EFCA staff with a need to know: EFCA Data Administrators (FIS information), Coordinators of Control Operations and Desk Officers involved in the implementation of JDPs (FIS information and paper inspection reports).

EFCA provides access to the ERS and EIR data to designated persons as authorised by the competent authorities in the Member States, in the context of a JDP through the EFCA-FIS. Authorised persons are provided with access credentials which will determine the level of access and privileges they will have within each of the EFCA-FIS component applications.

These credentials include a Single Sign-On (SSO) username and password. These authorised persons are the members of the Steering Group and the Technical Joint Deployment Group of the Joint Deployment Plan (Member States to which the JDP is addressed) and MS National Experts in the Fisheries Monitoring Centres.

In the case of the MED JDP also to the European Commission, DG MARE, UNIT D-2 and in the case of NAFO-NEAFC to the European Commission, DG MARE Unit B3 and Unit C2.

Regarding the inspection reports resulting of the JDP control activities in the respective area of competence, European Commission, Executive Secretary of NAFO and NEAFC and Flag State authorities.

Lawfulness of processing:

A reference to compliance of the processing operations with the EU data protection laws (Directive 95/46/EC and Regulation (EC) No 45/2001) is included in all Joint Deployment Plans:

“The personal data processed during the planning, implementation and review of the Joint Deployment Plan shall benefit from the protection as is accorded by Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data (Footnote: OJ L 281, 23.11.95, p. 31.) and Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (Footnote: OJ L 8, 12.1.2001, p.1).”

The data subject's rights:

In relation to any requests, if the data subject requests the Controller orally, by email or by paper to exert his/her rights, the Controller will facilitate the applicant the exercise of the rights, subject to the restrictions mentioned below.

EFCA has no influence on the content of the Vessel Monitoring System (VMS) data, or the content of the electronic logbook data (ERS), or the content of the electronic inspection and surveillance reports (EIR) or the inspection reports which are compiled by the Member State and then provided to EFCA through the EFCA-FIS or on paper. EFCA merely provides the means to receive, process and provide shared access to and/or exchange the relevant data.

EFCA does not have the competence for any follow up of alleged infringements made and laid down in an inspection report. This is the responsibility of Coastal Member States and Flag Member States (Title VII, Chapters III and IV of Council Regulation (EC) No 1224/2009). The inspection report serves as evidence in court and can therefore not be modified (Articles 76 and 77 R. 1224/2009).

Thus the rights mentioned in Articles 13 to 18 of R. 45/2001 are restricted for the present data processing operation (Art. 20 (1)(a) and (e) and Art. 5(b) R. 45/2001) with regard to inspection reports containing alleged infringements.

Apart from that, EFCA does not “own” the inspection reports information, VMS and ERS data, which is third-party data (of the Member State), and therefore EFCA cannot give access to it without having consulted the third party and having received a positive answer in accordance with Art. 4(4) of Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents.

EFCA will ensure that any restrictions to the right of access to the information contained in the inspection report information and VMS and ERS data on the basis of Art. 20(1)(a) and (e) do not exceed what is necessary to achieve the respective objective. In particular, for inspection report information, when consulting the Member State who carried out the inspection as regards access to the relevant inspection report, EFCA will stress the importance of respecting the right of access to personal data of the data subject concerned, to give full effect to Art. 13 of R. 45/2001.

As regards inspection reports, in all cases, the right of access is already granted by providing the master of the fishing vessel and other operators who sign the report with a copy of the inspection report. The report is also signed by the inspectors.

The data subjects are also entitled to have recourse at any time to the European Data Protection Supervisor: <http://www.edps.europa.eu>

Periods for data retention:

The data from the inspection reports shall be kept for 3 years (Art. 118(3) Regulation (EU) No 404/2011).

The personal data related to ERS is kept two years on the Member States' request (Art. 45(3)(a) of Regulation 404/2011).

The VMS data is retained in the system for a period of maximum three years (Art. 27(2)(b) Regulation (EU) No 404/2011).

Contact information:

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