

**MEMORANDUM OF UNDERSTANDING**  
**BETWEEN**  
**THE BELGIAN FEDERAL PUBLIC SERVICE FOREIGN AFFAIRS**  
**AND**  
**EUROPEAN PARLIAMENT, EUROPEAN COUNCIL, COUNCIL OF THE EUROPEAN UNION, EUROPEAN COMMISSION, EUROPEAN EXTERNAL ACTION SERVICE, EUROPEAN ECONOMIC AND SOCIAL COMMITTEE, COMMITTEE OF THE REGIONS AND EUROPEAN DEFENCE AGENCY**  
**(Hereafter the European Institutions and Bodies)**  
**ON**  
**SECURITY VERIFICATIONS**

This **Memorandum of Understanding** (MoU) sets out the terms and understanding between the Belgian Federal Public Service (FPS) Foreign Affairs and the European Institutions and Bodies, hereafter referred to as the "Participants", regarding the implementation of security verifications on employees of external contractors requiring access to the European Institutions and Bodies.

Acknowledging that:

In accordance with the arrangement of 31 December 2004 between

the Government of the Kingdom of Belgium and  
the European Parliament, the Council, the Commission, the European Economic and Social Committee, the Committee of the Regions and the European Investment Bank on Security,

the EU Institutions and Bodies are responsible for safeguarding security in their premises and on the grounds on which they are located;

Following the entry into force of the Treaty of Lisbon, the list of Institutions and Bodies located in Belgium has been amended to include the European Council, the European External Action Service and the European Defence Agency;

In accordance with Article 4(3) of the Treaty on European Union and Article 18 of the Protocol on the Privileges and Immunities of the European Union of 8 April 1965, establishing the principle of loyal cooperation, the Belgian Authorities will facilitate the mission of the Union and will provide, on request of the EU Institutions and Bodies, assistance to implement the above mentioned security arrangement;

In accordance with Article 22<sup>quiquies</sup> of the Act of 11 December 1998 on classification and security clearances, security certificates and security advice, the Belgian Authorities will

implement the above mentioned assistance by means of issuing security advice for employees of external contractors who require access to EU Institutions and Bodies in Belgium;

In accordance with Article 22*septies* of the Act of 11 December 1998 on classification and security clearances, security certificates and security advice, these Security Advice will be subject to a fee payable by the employer of the person who is subjected to the Security Advice;

And considering the Belgian legal and regulatory framework on security verifications:

- Act of 11 December 1998 on classification and security clearances, security certificates and security advice, its accompanying Royal Decree of 24 March 2000 and the Royal Decree of 8 May 2018 modifying the aforementioned Decree;
- Royal Decree of 8 May 2018 establishing the activity sectors and the competent administrative authorities as referred to in Article 22*quinquies*, § 7, of the Act of 11 December 1998 on classification and security clearances, security certificates and security advices (hereafter the Act of 11 December 1998);
- Royal Decree of 8 May 2018 establishing the list of data and information that can be consulted in the context of the execution of a security verification;
- Royal Decree of 8 May 2018 establishing the amount of the fees due for the security clearances, for the security certificates and security advice issued by the National Security Authority and for the security certificates issued by the Federal Agency for Nuclear Control as well as for the allocation keys referred to in Article 22*septies*, sixth and eighth paragraph, of the Act of 11 December 1998;
- Act of 11 December 1998 establishing an appeal body on security clearances, security certificates and security advice and its accompanying Royal Decree of 24 March 2000 (hereafter the Appeals Act);

**THE PARTICIPANTS HAVE, IN THE INTEREST OF SECURITY, DECIDED UPON THE FOLLOWING ARRANGEMENTS:**

**Section I: Definitions**

1.1 "External contractor" means any party, not being a European Institution or Body, that supplies goods, services or works to the European Institutions and Bodies.

1.2 "Administrative Authority" means the authority competent for managing the security verification requests. It acts as an intermediary between the European Institutions and Bodies and the Belgian National Security Authority.

In accordance with the Royal Decree of 8 May 2018 establishing the activity sectors and the competent administrative authorities referred to in the Article 22*quinquies*, §7, of the Act of 11 December 1998, the Administrative Authority for International Institutions is the officer in charge of the FPS Foreign Affairs or his delegate.

1.3 "National Security Authority" means the collegial authority of Belgium competent for issuing or withdrawing a security advice.

1.4 "Appeal Body" means the college composed of the president of the Standing Intelligence Agencies Review Committee, the president of the Standing Police Monitoring Committee, and the president of the Data Protection Authority or their substitute, in charge of the analysis of the appeal according to the Appeals Act.

1.5 "Security Officer" means the independent person, holder of a security clearance, who is designated by the minister in a public administration, an institution of public interest or an autonomous public company, to ensure compliance with the security rules in the context of a security advice or certificate. In accordance with Article 13, 1°, and Article 22*quinquies*, §6 of the Act of 11 December 1998, at least one security officer will be designated on the part of the employer of the external contractors as well as on the part of the European Institutions and Bodies.

1.6 "Security Advice" results from the security verification referred to in Article 22*sexies* of the Act of 11 December 1998.

**Section II: Purpose and scope**

2.1 In accordance with Article 22*quinquies* of the Act of 11 December 1998, the European Institutions and Bodies requested that the access to EU Institutions and Bodies for employees of external contractors benefit from a security advice. Following approval of the abovementioned request, the subsequent security advice will be given by the authority referred to in section 15, subsection 1 of the same Act.

2.2 This request is legally justified as per the grounds mentioned in article 22*quinquies* of the Act of 11 December 1998. Inappropriate access to EU Institutions and Bodies could cause damage to the protection of the external security of the State and the international relations of Belgium, in particular to the physical security or to the reputation of the European Institutions and Bodies.

2.3 The security measures taken by the sector, the risk analysis, threat analysis and impact analysis constitute dynamic factors in this verification process.

2.4 Consequently, this MoU sets out the procedure for requesting a security advice and conducting such security verifications.

2.5 Any employee of an external contractor requiring access to EU Institutions and Bodies may be subject to a security verification and advice.

### Section III: Procedure

3.1 Each of the European Institutions and Bodies participating in this MoU will designate a Security Officer who will be responsible for managing and overseeing the security verification process for their organisation. As a liaison, the Security Officer is also responsible for transferring the security verification requests to the Administrative Authority.

3.2 Any employee of an external contractor who will be subject to a security verification will give his permission to initiate the security verification necessary to obtain a security advice.

In Accordance with the Royal Decree of 8 May 2018, amending the Royal Decree of 24 March 2000 implementing the Act of 11 December 1998, the Security Officer will transmit a consent form to the external contractor, as included in Annex I, to be forwarded to employees concerned.

The employee of the external contractor will be invited to complete and sign that document and submit it to the external contractor who will in turn submit it to the Security Officer of the EU Institution or Body concerned.

If the employee of the external contractor refuses to be subjected to a security verification, s/he may express her/his refusal by indicating it on the consent form and sending it, by registered mail, to the Security Officer of the EU Institution or Body concerned. In that case, the person concerned may be refused access to the European Institutions and Bodies.

3.3 The Security Officer of the EU Institution or Body concerned will electronically transmit the following data of the person involved to [international-verifications@diplobel.fed.be](mailto:international-verifications@diplobel.fed.be): last name, first name, address, date and place of birth, nationality, national number (or ID number if the employee is not of Belgian nationality), function, employer date of request, company ID number and valid e-mail address for the payment of the fee.

To submit those data, the Security Officer of the EU Institution or Body concerned must use the template included in Annex II. In the interest of data protection, these personal data will be transmitted in a protected way.

3.4 The European Institutions and Bodies are responsible for storing the duly completed and signed original notification documents.

3.5 The security verification consists of the consultation and evaluation of the data referred to in Article 22<sup>sexies</sup> of the Act of 11 December 1998.

3.6 Based on the information of the security verification, the National Security Authority issues, in writing, a well-reasoned security advice to the Administrative Authority in accordance with the procedure set out in Article 22<sup>quinquies</sup>/1 of the Act of 11 December 1998.

3.7 In accordance with Article 22<sup>quinquies</sup>/1 of the Act of 11 December 1998, the security advice, excluding the reasons for the decision, is notified to the Security Officer of the external contractor's employer as well as the Security Officer of the European Institutions and Bodies.

By delivering a negative security advice, the National Security Authority implies that access to EU Institutions and Bodies by the individual concerned may represent a security risk to the European Institutions and Bodies. Consequently, that person may be refused access to the European Institutions and Bodies.

In accordance with Article 22<sup>quinquies</sup>/1, §2 of the Act of 11 December 1998, the person concerned will be notified of that advice, including the reasons for the decision, by registered letter by the Administrative Authority.

In accordance with the Appeals Act, in case of a negative security advice, the individual concerned is entitled to lodge an appeal with the Appeal body within a period of eight days after receipt of the advice. The appeal is non-suspensive.

3.8 The security advice is valid for a maximum period of five years.

3.9 The National Security Authority is authorised to withdraw a positive security advice if it considers that, after having received new information, the conditions for granting it are no longer met. In that case, the Administrative Authority will be notified immediately so that the procedure in 3.7 applies.

### Section IV: Security cooperation

4.1 The Participants acknowledge that it is important to build and maintain good relationships to facilitate implementation of this arrangement. They will endeavour to exchange all relevant information to avoid redundancies in the implementation of the verification process.

4.2 The Participants will provide each other with official contact details. In case of ambiguities concerning the risk or threat analysis, the Administrative Authority may initiate one or several meetings between the Participants.

4.3 Taking into consideration the additional workload this arrangement brings for Belgian security services, the Participants agree to send verification requests in batches of no more than 500 at an interval of minimum two weeks. After completion of all initial verification requests, modalities for phasing new or recurrent requests can be agreed by mutual consent between the Participants.

4.4 The Participants acknowledge that the security advice is based on information available to the Belgian security authorities as described in point 3.5. Given the legal timeframe provided for by the Act of 11 December 1998, information on persons who do not reside in Belgium or who are not of Belgian nationality will generally be limited to internationally available data from sources such as the Schengen Information System or Interpol.

4.5 A Participant may, upon providing a valid reason, request a review of any security verification. Upon completion of such a review, the National Security Authority will notify the requesting Participant of the results and, where appropriate, of any subsequent action taken.

4.6 The National Security Authority may decide *ex officio* or upon request of any of the Participants to convene a consultation meeting. Such meetings may be used to discuss any issues relevant to the implementation of this MoU.

4.7 The cooperation under this Agreement will be executed in English, Dutch or French.

4.8 In the framework of this cooperation the designated Security Officers of the European Institutions and Bodies, as well as stakeholders representing the Administrative Authority will work in such a way as to ensure that data processed for the purpose and scope of this MoU will be processed in accordance with Articles 7 and 8 of the Charter of Fundamental Rights of the European Union and with the provisions on the protection of individuals with regard to the processing of personal data laid down in applicable EU and/or Belgian law.

**Section V: Final provisions**

5.1 This MoU replaces the MoU signed by the same Participants on 18 October 2016. This MoU will enter into force on 21 May 2019 and will remain in effect until terminated by any one of the Participants by mutual consent.

5.2 This MoU can be modified or amended in writing at any time and with the consent of all the Participants. The Participants will consult and consider the requirement for amendments. Modifications or amendments will become effective upon their signature or as stated in the text of the relevant modification or amendment.

5.3 Any disputes or issues arising out of the execution of this MoU between the Participants will be resolved by negotiations at the lowest level possible before being referred to the Participants. The Participants agree to jointly resolve any differences between them relating to the interpretation or application of this MoU without recourse to any outside legal or administrative proceedings or jurisdiction.

The undersigned, duly authorised thereto, have signed this MoU in the English language, in Brussels on the 21th of May 2019, in nine original copies.

For the Federal Public Service Foreign Affairs

Date: May 21<sup>st</sup> 2019

For the European Institutions and Bodies

European Parliament

European Council

Council of the European Union

European Commission

European External Action Service

European Economic and Social Committee

Committee of the Regions of the European Union

European Defence Agency