

Review of Data Transfers

Version 1.0, October 4, 2023

Introduction

When transferring personal data to third countries or international organizations outside the European Union (EU), Data Controllers or Data Processors are required to live up to the requirements set out in Chapter V of the General Data Protection Regulation (referred to as “GDPR”)¹.

As stated in GDPR Article 44 Data Controller's and Data Processor's data transfers to third countries or international organizations can only take place if the conditions laid down in Chapter V are complied with. Further, GDPR Article 45(1) stipulates that a transfer of personal data to a third country or an international organization may take place when the EU Commission has decided that there is an adequate level of protection. Such transfers shall not require any specific authorization.

However, it is stated in GDPR Article 46(1), that in the absence of a decision pursuant to GDPR Article 45, the Data Controller or Processor may only transfer personal data to a third country or an international organization if the Data Controller or Processor has provided appropriate safeguards, and on condition that enforceable data subject rights and effective legal remedies for data subjects are available.

¹ [Regulation \(EU\) 2016/679 of the European Parliament and 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.](#)

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1. Preamble

This Document is drafted on behalf of:

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Whistleblower Partners delivers, in cooperation with Nordic Whistle and Whistlesoft, the Whistleblower Partners Screening Service, System, Response Service, and Speak Up Universe.

1.1. The distinction between Data Controller and Processor

In GDPR Article 4(7) a Data Controller is defined as 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”*. The conditions of being a Data Controller are summarized:

- 1) A natural or legal person (...),
- 2) which determines the purposes and means,
- 3) of the processing of personal data.

When Whistleblower Partners delivers the Whistleblower Partners Screening Service and System, in combination, Whistleblower Partners is Data Controllers. When Whistleblower Partners delivers the Whistleblower Partners System (only), Whistleblower Partners is Data Processors.² In this Review, Whistleblower Partners will be referred to as “Data Controllers”, but the Review applies *mutatis mutandis* to Whistleblower Partners role as “Data Processors”.

1.2. The Scope

For the purpose of demonstrating compliance with the Data Controller’s obligation to maintain a record of processing activities under its responsibility in GDPR Article 30(1), and to demonstrate compliance with the provisions on data transfers to third countries in GDPR Chapter V, the Data Controller conducts this Review of the Data Controller’s storage and transfers of personal data.

² [Response from the Danish Data Supervisory Authority \(Case No. 2021-211-6947\)](#).

2. Data Processing

2.1. Data Subjects

The Data Controller delivers the services to Customers, which are all forms of legal entities, including public authorities, and associations. When delivering the services, the Data Controller processes and receives the personal data of the following data subjects:

- (Whistleblower) Reporting persons.
- Persons concerned in (whistleblower) reports.
- Employees or other natural persons representative of Customers.
- Employees or other natural persons representative of Data Processors.
- Employees or other natural persons representative of Suppliers.

2.2. Categories of Personal Data

The Data Controller processes and receives all categories of personal data, including general personal data (GDPR Article 6), special categories of personal data (GDPR Article 9), and personal data relating to criminal convictions and offenses (GDPR Article 10).

2.3. Types of Personal Data

The Data Controller might process and receive the following types of personal data:

General Personal Data (GDPR Article 6)

- Contact information,
- Birth data,
- Logins and identification numbers,
- Employment conditions,
- Salary and bank information,
- Qualifications and certifications,
- Performance,
- Relationships,
- Behavioral information,
- Technical preferences,
- Technical information,
- Purchase history,
- Confidential information and civil registration,
- Serious or repeated violations of legislation, internal guidelines, or codes of conduct,
- Other personal information.

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Special Categories of Personal Data (GDPR Article 9)

- Race or ethnic origin,
- Political beliefs or affiliation,
- Religious or philosophical beliefs,
- Trade union membership,
- Health,
- Sex life and sexual orientation,
- Genetic data,
- Biometric data,
- Information about children,
- Other sensitive information.

Criminal Convictions and Offenses (GDPR Article 10)

- Convictions and offenses.

3. Transfers to Third Countries

In accordance with the Danish Data Supervisory Authority's Guidelines³, a data transfer to a third country is understood as, *"when personal data leaves the EU or is made available outside the EU"*.

3.1. Location of the Data Processing

The Data Controller processes and stores data in the following locations:

Service	Processors	Address	Activities
Operation Maintenance Development	Whistleblower Partners ApS Nordic Whistle ApS Whistlesoft ApS	Kultorvet 11, 4., 1175 Copenhagen C, Denmark	Processing Storage Backup
Operation	HubSpot Ireland Ltd. ⁴	1 Sir John Rogerson's Quay, D02 Dublin, Ireland	Processing Storage Backup
Microsoft Azure Services	Microsoft Ireland Operations Ltd. ⁵	Carmanhall and Leopardstown, D18 Dublin, Ireland	Processing Storage Backup

³ [The Danish Data Supervisory Authority's Guidelines on Third Country Transfers of June 2022 \(4th Edition\)](#), p. 6.

⁴ HubSpot. (2023). Jurisdiction Specific Terms. legal.hubspot.com.

⁵ Microsoft Azure. (2023). Data Residency in Azure. azure.microsoft.com.

3.2. Legal Framework

As mentioned in the Introduction Section, the Regulation states in Article 44 that data transfers to third countries only can take place if the conditions laid down in Chapter V are complied with. As seen in Section 3.1 the personal data is at no point made available to third countries. Therefore, *the data processing is not subject to the rules in GDPR Chapter V*, regarding transfers to third countries.

3.3. Conclusion Regarding Data Transfers

In conclusion, the data processing of Whistleblower Partners does not fall under the scope of GDPR Article 44, because the data is not made available outside of the EU. Whistleblower Partners is not subject to the requirements in GDPR Chapter V.

4. Amendment

This Review of the Data Controller's storage and transfers of personal data was conducted on the 4th of October 2023 and will be reviewed once again, if the featured companies' current Data Processors or Sub-Data Processors change location, or if the featured companies take new Data Processors or Sub-Data Processors into use.