COMMISSION IMPLEMENTING DECISION (EU) 2021/858

of 27 May 2021

amending Implementing Decision (EU) 2017/253 as regards alerts triggered by serious cross-border threats to health and for the contact tracing of passengers identified through Passenger Locator Forms

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Decision No 1082/2013/EU of the European Parliament and of the Council of 22 October 2013 on serious cross-border threats to health and repealing Decision No 2119/98/EC ([1]), and in particular Article 8(2) thereof,

Whereas:

(1) The identification of a positive case of COVID-19 following a given cross-border journey fulfils the criteria set out in Article 9(1) of Decision 1082/2013/EU, as it may still cause significant mortality in humans, as it may grow rapidly in scale, as it affects more than one Member State, and as it may require a coordinated response at Union level. In accordance with point 23 of Recommendation (EU) 2020/1475 of 13 October 2020 on a coordinated approach to the restriction of free movement in response to the COVID-19 pandemic ([2]), information on COVID-19 cases detected on the arrival of a person on the territory of a Member State should be immediately shared with the public health authorities of the countries the person concerned has stayed in during the previous 14 days for contact tracing purposes, using the Early Warning and Response System ('EWRS') established by Article 8 of Decision 1082/2013/EU and operated by the European Centre for Disease Prevention and Control ('ECDC').

(2) Pursuant to Recommendation (EU) 2020/1475, Member States could require persons entering their territory to submit passenger locator forms ('PLFs') in accordance with data protection requirements.

(3) By imposing the completion of national PLFs of various formats, Member States collect PLF data from cross-border passengers entering their territory. One use of this data is that if a person who has completed a PLF is identified as a COVID-19 case, the data collected by the PLF are used to establish the journey of that person and transmit relevant information to the Member States that need to perform contact tracing procedures in relation to persons that might have been exposed to the infected passenger.

(4) Public health authorities of some Member States have already been exchanging personal data collected through national PLFs between themselves for purposes of contact tracing in the context of the COVID-19 pandemic. This exchange has been done in particular through the current technical infrastructure provided under the EWRS.

(5) The technical infrastructure currently provided under the EWRS is not yet designed to handle the volume of PLF data generated by the systematic and large-scale use of PLFs. For example, it does not translate between different national formats and requires manual entry, thus adversely affecting the timeliness and effectiveness of contact tracing. This is in particular the case when contact tracing needs to be performed in relation to cross-border passengers that have travelled by collective transport means with pre-assigned seats, such as aircraft, certain trains, ferries and cruises, where the number of exposed passengers and the duration of exposure to an infected passenger could be significant.

(6) A technical infrastructure – called the 'PLF exchange platform' – should therefore be set up to enable the secure, timely and effective exchange of data between the EWRS competent authorities of the Member States, by allowing to transmit information from their existing national digital PLF systems to other EWRS competent authorities in an interoperable and automatic manner. It should build on the exchange platform already developed by the European Union Aviation Safety Agency ('EASA'), with EASA not playing any role in the context of the processing of personal data through the PLF exchange platform as laid down in this Implementing Decision. The PLF exchange platform

([1]) OJ L 293, 5.11.2013, p. 1.
([2]) OJ L 337, 14.10.2020, p. 3.

should also enable the exchange of limited epidemiological data, necessary for the contact tracing, in accordance with Article 9(3) of Decision 1082/2013/EU. In order to avoid an overlap of activities or conflicting actions with existing structures and mechanisms for monitoring, early warning and combating serious cross-border threats to health, the PLF exchange platform should be developed under the EWRS as a complement of the selective messaging functionality existing within that system.

(7) The PLF exchange platform should be operated by the ECDC in line with Article 8 of Regulation (EC) No 851/2004 of the European Parliament and of the Council ([3]).

(8) The PLF exchange platform should not store the PLF data and the epidemiological data to be exchanged.

(9) If a Member State does not have a nationally developed digital PLF system, it could use the common European Union digital Passenger Locator Form System ('EUdPLF') which the EU Healthy Gateways Joint Action was tasked by the Commission to develop (grant No 801493) ([4]). The purpose of the EUdPLF is to create a single entry point and database for the collection of PLFs. In the future, the EUdPLF should be connected with the PLF exchange platform for the sole purpose of allowing the exchange of data between Member States with their own national digital PLF systems on the one hand and Member States making use of the EUdPLF on the other hand. This Decision does not cover the establishment of the EUdPLF nor does it regulate the processing of personal data in relation to it.

(10) This Decision does not regulate the establishment of national PLFs, which is a matter for the Member States to decide upon. Member States are free to choose whether they collect PLFs from all passengers arriving at their territory, or only from passengers having that Member State as their final destination. Effective cross border contact tracing based on PLF data requires that Member States collect a common minimum set of PLF data through their national PLFs. Those minimum PLF data should therefore be laid down. Moreover, for reasons of cost efficiency, sustainability and increased security of the solution, Member States should consider adopting a common approach when it comes to requiring PLFs from all passengers, including transit passengers, or only from those passengers that have the Member state concerned as their final destination.

(11) The use of the PLF exchange platform should be voluntary and Member States should be free to notify alerts under the currently existing technical infrastructure of the EWRS, on a temporary basis and provided they do not compromise the purpose of contact tracing.

(12) EWRS competent authorities should only exchange well-defined sets of data collected through their PLFs and other limited epidemiological data necessary for the contact tracing, in line with the minimisation principle of personal data processing. Where the Member State notifying the alert about an infected passenger can identify all the Member States concerned, based on the PLF data at its disposal, it should transmit data only to the EWRS competent authorities of those Member States. This is the case, for example, where the Member State identifying the infected passenger collects PLFs for all passengers, including transit passengers, arriving in its territory with a direct connection from the initial place of departure.

(13) Where a passenger is detected as being infected with SARS-CoV-2 in a Member State, the EWRS competent authorities of that Member State should be able to share with the EWRS competent authorities of the Member State of departure a limited set of data extracted from the PLFs, which should be strictly defined as to what is necessary to perform contact tracing of exposed persons in the Member State of departure and residence, where different from the Member State of departure – namely the identity and contact information of the infected passenger.

([3]) Regulation (EC) No 851/2004 of the European Parliament and of the Council of 21 April 2004 establishing a European Centre for disease prevention and control (OJ L 142, 30.4.2004, p. 1).

([4]) The Joint Action Preparedness and action at points of entry (ports, airports, and ground crossings) HEALTHY GATEWAYS brings together 28 European countries, funded by the Third Health Programme (2014-2020).

(14) In addition, where a passenger is detected as being infected with SARS-CoV-2 in a Member State, the EWRS competent authorities of that Member State should also be able to share a limited set of data with the EWRS competent authorities of all the Member States or of the concerned Member States, if those authorities have the information enabling them to identify such Member States. The data should be limited to the place of departure, the place of arrival, the date of departure, the type of transport used (e.g. plane, train, coach, ferry, ship), identification number of the transport service – that is to say flight number, train number, coach's number plate, ferry or ship's name – the seat or cabin number of the infected passenger, and the time of departure in case the above data are not sufficient to identify the transport. This should allow the receiving EWRS competent authorities to establish whether exposed passengers arrived in their territory and, if so, to perform their contact tracing.

(15) When sharing data with other EWRS competent authorities through the PLF exchange platform, the relevant EWRS competent authority should be able to add epidemiological information, limited to what is necessary to perform the contact tracing, i.e. the type of COVID-19 test performed, the variant of the SARS-CoV-2 virus, the date of sampling and the date of symptom onset.

(16) Processing of personal data of infected passengers, exchanged through the PLF exchange platform, is to be carried out by the EWRS competent authorities in accordance with Regulation (EU) 2016/679 of the European Parliament and of the Council ([5]). Processing of personal data under the responsibility of the ECDC as operator of the PLF exchange platform for purposes of contact tracing and of the Commission as its sub-processor has to comply with Regulation (EU) 2018/1725 of the European Parliament and of the Council ([6]).

(17) The legal ground for the exchange of infected passengers' personal data, including on health, between the EWRS competent authorities for the purpose of contact tracing is laid down in Article 9(1) and 9(3)(i) of Decision 1082/2013/EU, in line with Article 6(1)(c) and Article 9(2)(i) of Regulation (EU) 2016/679. This Decision should lay down suitable and specific measures to safeguard the rights and freedoms for the data subject. These should include measures relating to the definition of the necessary data sets to be exchanged, the EWRS competent authorities with which the data should be exchanged in the various cases, the appropriate security measures, including encryption, and the modalities for the processing of data between the national competent authorities through the PLF exchange platform within the European Union.

(18) The EWRS competent authorities participating in the PLF exchange platform determine together the purpose and means of processing of personal data in the PLF exchange platform, and are therefore joint controllers. Article 26 of Regulation (EU) 2016/679 places an obligation on joint controllers to determine, in a transparent manner, their respective responsibilities for compliance with the obligations under that Regulation. It also provides for the possibility to have those responsibilities determined by Union or Member State law to which the controllers are subject. This Decision should therefore determine the respective roles and responsibilities of the joint controllers.

(19) The ECDC, as a provider of technical and organisational solutions for the PLF exchange platform, processes PLF and epidemiological data on behalf of the Member States participating in the PLF exchange platform as joint controllers, and is therefore a processor within the meaning of Article 3(12) of Regulation (EU) 2018/1725. Pursuant to Article 28 of Regulation (EU) 2016/679 and Article 29 of Regulation (EU) 2018/1725, the processing by a processor is to be governed by a contract or a legal act under Union or Member State law which is binding on the processor with regard to the controller and which specifies the processing. It is therefore necessary to set out rules on processing by the ECDC as a processor.

(20) Article 3(3) of Regulation (EC) No 851/2004 provides that the ECDC, the Commission and the Member States shall cooperate to promote effective coherence between their respective activities. Accordingly, service level agreements should be concluded between the Commission and the ECDC to cooperate during the technical development and operation of the PLF exchange platform. They have to specify the division of responsibilities (organisational, financial and technological) between the parties to facilitate the implementation of the PLF exchange platform and the technical measures relating to its operation, maintenance and further development.

(21) Implementing Decision (EU) 2017/253 should therefore be amended accordingly.

([5]) Regulation (EU) 2016/679 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 (OJ L 119, 4.5.2016, p. 1).

([6]) Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).

(22) The PLF exchange platform is to be financed in the year 2021 by the Emergency Support Instrument, that has been put in place to help Member States respond to the coronavirus pandemic by addressing needs in a strategic and coordinated manner at European level, and by the 'Support activities to the European transport policy, transport security and passenger rights including communication activities'. It is to be financed in the year 2022 by the Digital Europe Programme.

(23) Considering the envisaged date of operation of the PLF exchange platform, this Decision should apply from 1 June 2021. The exchange of data should cease after 12 months or once the Director-General of the World Health Organization has declared, in accordance with the International Health Regulations that the public health emergency of international concern caused by SARS-CoV-2 has ended, if that declaration is made earlier.

(24) The operation of the PLF exchange platform should be limited to the control of the COVID-19 pandemic. However, it could be in the future extended through an amending implementing decision to such epidemics that may require Member States to exchange PLF data for contact tracing purposes, in line with the criteria set out in Article 9(1) and the conditions set out in Article 9(3) of Decision 1082/2013/EU.

(25) The European Data Protection Supervisor was consulted in accordance with Article 42(1) of Regulation (EU) 2018/1725 and delivered an opinion on 6 May 2021.

(26) The measures provided for in this Decision are in accordance with the opinion of the Committee on serious cross-border threats to health established by Article 18 of Decision No 1082/2013/EU,

HAS ADOPTED THIS DECISION:

Article 1

Implementing Decision (EU) 2017/253 is amended as follows:

(1) The following Article 1a is inserted:

'Article 1a

Definitions

For the purposes of this Decision, the following definitions apply:

(a) 'passenger locator form' ('PLF') means a form completed on the request of public health authorities that collects at least the passengers' data specified in Annex I and that assists those authorities in managing a public health event by enabling them to trace passengers crossing borders who may have been exposed to a SARS-CoV-2 infected person;

(b) 'passenger locator form data' ('PLF data') means personal data collected through a PLF;

(c) 'digital entry point' means a single digital location to which EWRS competent authorities can securely connect their national digital PLF systems to the PLF exchange platform;

(d) 'journey' means the cross-border travel by a person, by means of collective transport with pre-assigned seats, having regard to the place of that person's initial departure and final destination, with one or more legs.

(e) 'leg' means a cross-border single travel of a passenger with no connections or changes of flight, train, vessel or vehicle;

(f) 'infected passenger' means a passenger who fulfils the laboratory criterion for SARS-CoV-2 infection;

(g) 'exposed person' means a passenger or another person who has been in close contact to an infected passenger;

(h) 'alert' means a notification using the Early Warning and Response System (EWRS), following Article 9 of Decision 1082/2013/EC. '

(2) The following Articles 2a, 2b and 2c are inserted:

'Article 2a

Platform for the exchange of PLF data

1. A platform for the secure exchange of PLF data of infected passengers for the sole purpose of SARS-CoV-2 contact tracing of exposed persons by the EWRS competent authorities ('PLF exchange platform') is established under the EWRS as a complement of the selective messaging functionality existing within that system.

The PLF exchange platform shall provide a digital entry point for EWRS competent authorities to securely connect their national digital PLF systems or connect through the common European Union digital Passenger Locator Form System ('EUdPLF'), in order to enable the exchange of data collected through PLFs.

The EWRS competent authorities shall be able to use the PLF exchange platform for the exchange of additional data, that is to say epidemiological data for the sole purpose of SARS-CoV-2 contact tracing of exposed persons, in accordance with Article 2b(5).

2. The PLF exchange platform shall be operated by the ECDC.

3. In order to fulfil their obligations under Article 2 to notify serious cross-border threats to health that are identified in the context of the collection of PLF data, the EWRS competent authorities of the Member States requiring the completion of PLF shall exchange a set of PLF data, as detailed in Article 2b, through the PLF exchange platform.

4. The EWRS competent authorities may continue to fulfil their obligations under Article 9(1) and 9(3) of Decision 1082/2013/EU to notify serious cross-border threats to health that are identified in the context of the collection of PLF data through the other existing communication channels referred to in Article 1(2) of this Decision, on a temporary basis and provided that that choice does not compromise the purpose of contact tracing.

5. The PLF exchange platform shall not store the PLF and the additional epidemiological data. It shall only allow EWRS competent authorities to receive data that were sent to them by other EWRS competent authorities for the sole purpose of SARS-CoV-2 contact tracing. The ECDC shall only access the data for ensuring the good functioning of the PLF exchange platform.

6. The EWRS competent authorities shall not retain the PLF and epidemiological data received through the PLF exchange platform for longer than the retention period applicable in the context of their national SARS-CoV-2 contact tracing activities.

7. The Commission shall cooperate with the ECDC in the fulfilment of the tasks entrusted to it under this Decision, in particular as regards technical and organisational measures relating to the deployment, implementation, operation, maintenance and further development of the PLF exchange platform.

8. Processing of personal data in the PLF exchange platform for the sole purpose of SARS-CoV-2 contact tracing shall be performed until 31 May 2022 or until the Director-General of the World Health Organization has declared, in accordance with the International Health Regulations, that the public health emergency of international concern caused by SARS-CoV-2 has ended, whichever is the earliest.

Article 2b

Data to be exchanged

1. When notifying an alert in the PLF exchange platform, the EWRS competent authorities of the Member State where the infected passenger is identified shall transmit the following PLF data to the EWRS competent authorities of the Member State of the infected passenger's initial departure or residence, where the place of residence is different from the place of initial departure:

(a) first name;

(b) last name;

(c) date of birth;

(d) phone number (landline and/or mobile);

(e) e-mail address;

(f) address of residence.

2. The EWRS competent authorities of the Member State of the infected passenger's initial departure may transmit the PLF data received to a Member State of departure other than the one declared in the PLF as Member State of initial departure, where they have the additional information pointing to the Member State that should perform the contact tracing.

3. When notifying an alert in the PLF exchange platform, the EWRS competent authorities of the Member State where the infected passenger is identified shall transmit the following PLF data, in relation to each leg of that passenger's journey, to the EWRS competent authorities of all Member States:

(a) place of departure of each concerned transport;

(b) place of arrival of each concerned transport;

(c) date of departure of each concerned transport;

(d) type of each concerned transport (e.g. plane, train, coach, ferry, ship);

(e) identification number of each concerned transport (e.g. flight number, train number, coach's number plate, ferry or ship name);

(f) seat/cabin number in each concerned transport;

(g) where necessary, the time of departure of each concerned transport.

4. Where the EWRS competent authorities of the Member State notifying the alert can identify the Member States concerned based on information at their disposal, they shall transmit the data listed in paragraph 3 only to the EWRS competent authorities of those Member States.

5. The EWRS competent authorities shall be able to provide the following epidemiological data, where this is necessary in order to perform effective contact tracing:

(a) type of test performed;

(b) variant of SARS-CoV-2 virus;

(c) date of sampling;

(d) date of symptom onset.

Article 2c

Responsibilities of the EWRS competent authorities and of ECDC in the processing of PLF data

1. The EWRS competent authorities exchanging PLF data and the data in Article 2b(5) shall be joint controllers for the entry and transmission, until receipt, of those data through the PLF exchange platform. The respective responsibilities of the joint controllers shall be allocated in accordance with Annex II. Each Member State wishing to participate in the cross-border exchange of PLF data through the PLF exchange platform shall notify the ECDC, prior to joining, of its intention, and of its EWRS competent authority that has been designated as the responsible controller.

2. The ECDC shall be the processor of data exchanged through the PLF exchange platform. It shall provide the PLF exchange platform and ensure the security of processing, including of the transmission, of data exchanged through the PLF exchange platform, and shall comply with the obligations of a processor laid down in Annex III.

3. The effectiveness of the technical and organisational measures for ensuring the security of processing of PLF data exchanged through the PLF exchange platform shall be regularly tested, assessed and evaluated by the ECDC and by the EWRS competent authorities authorised to access the PLF exchange platform.

4. The ECDC shall engage the Commission as a sub-processor and shall ensure that the same data protection obligations set out in this Decision apply to the Commission. '

(3) In Article 3(3), the words 'the Annex' are replaced by 'Annex IV';

(4) In the Annex, the title 'ANNEX' is replaced by 'ANNEX IV';

(5) Annexes I, II and III, as set out in the Annex to this Decision, are inserted

Article 2

This Decision shall enter into force on the third day following that of its publication in the *Official Journal of the European Union*.

It shall apply from 1 June 2021.

Done at Brussels, 27 May 2021.

For the Commission
The President
Ursula VON DER LEYEN

ANNEX

'ANNEX I

MINIMUM SET OF PLF DATA TO BE COLLECTED THROUGH THE NATIONAL PLF

The PLF shall contain at least the following PLF data:

(1) first name;

(2) last name;

(3) date of birth;

(4) phone number (landline and/or mobile);

(5) E-mail address;

(6) address of residence;

(7) final or last destination in the EU of the entire journey;

(8) the following information for each leg of the journey until the Member State requiring the PLF:

  (a) place of departure;

  (b) place of arrival;

  (c) date of departure;

  (d) type of transport (e.g. plane, train, coach, ferry, ship);

  (e) time of departure;

  (f) identification number of the transport (e.g. flight number, train number, coach's number plate, ferry or ship name);

  (g) seat/cabin number.

ANNEX II

RESPONSIBILITIES OF THE PARTICIPATING MEMBER STATES AS JOINT CONTROLLERS FOR THE PLF EXCHANGE PLATFORM

SECTION 1

Division of responsibilities

(1) Each EWRS competent authorities shall ensure that the processing of PLF data and of the additional epidemiological data exchanged through the PLF exchange platform is carried out in accordance with Regulation (EU) 2016/679 of the European Parliament and of the Council *. In particular, it shall ensure that the data it enters and transmits through the PLF exchange platform are accurate and limited to the data laid down in Article 2b of this Decision.

(2) Each EWRS competent authority remains the sole controller for the collection, use, disclosure and any other processing of PLF data and additional epidemiological data, carried out outside the PLF exchange platform. Each EWRS competent authority shall ensure that the transmission of the data is carried out in accordance with the technical specifications stipulated for the PLF exchange platform.

(3) Instructions to the processor shall be sent by any of the joint controllers' contact point, in agreement with the other joint controllers.

(4) Only persons authorised by the EWRS competent authorities may access PLF data and additional epidemiological data exchanged through the PLF exchange platform.

(5) Each EWRS competent authority shall set up a contact point with a functional mailbox that will serve for communication between the joint controllers and between the joint controllers and the processor. The decisions making process of the Joint Controllers is governed by the EWRS Health Security Committee Working Group.

(6) Each EWRS competent authority shall cease to be joint controller from the date of withdrawal of its participation in the PLF exchange platform. It shall however remain responsible for the collection and transmission of PLF data and additional epidemiological data through the PLF exchange platform that occurred prior to its withdrawal.

(7) Each EWRS competent authority shall maintain a record of the processing activities under its responsibility. The joint controllership may be indicated in the record.

SECTION 2

Responsibilities and roles for handling requests of and informing data subjects

(1) Each EWRS competent authority requiring a PLF shall provide the cross-border passengers ("the data subjects") with information about the circumstances of the exchange of their PLF and epidemiological data through the PLF exchange platform for the purpose of contact tracing, in accordance with Articles 13 and 14 of Regulation (EU) 2016/679.

(2) Each EWRS competent authority shall act as the contact point for the data subjects and shall handle the requests relating to the exercise of their rights in accordance with Regulation (EU) 2016/679, submitted by them or by their representatives. Each EWRS competent authority shall designate a specific contact point dedicated to requests received from data subjects. If a EWRS competent authority receives a request from a data subject, which does not fall under its responsibility, it shall promptly forward it to the responsible EWRS competent authority and inform the ECDC. If requested, the EWRS competent authorities shall assist each other in handling data subjects' requests relating to the joint controllership and shall reply to each other without undue delay and at the latest within 15 days from receiving a request for assistance.

(3) Each EWRS competent authority shall make available to the data subjects the content of this Annex including the arrangements laid down in points 1 and 2.

SECTION 3

Management of security incidents, including personal data breaches

(1) The EWRS competent authorities as joint controllers shall assist each other in the identification and handling of any security incidents, including personal data breaches, linked to the processing of PLF and epidemiological data exchanged through the PLF exchange platform.

(2) In particular, they shall notify each other and the ECDC of the following:

(a) any potential or actual risks to the availability, confidentiality and/or integrity of the PLF and epidemiological data undergoing processing in the PLF exchange platform;

(b) any personal data breach, the likely consequences of the data breach and the assessment of the risk to the rights and freedoms of natural persons, and any measures taken to address the personal data breach and mitigate the risk to the rights and freedoms of natural persons;

(c) any breach of the technical and/or organisational safeguards of the processing operation in the PLF exchange platform.

(3) The EWRS competent authorities shall communicate any data breaches with regard to the processing operation in the PLF exchange platform to the ECDC, to the competent supervisory authorities and, where required, to the data subjects, in accordance with Articles 33 and 34 of Regulation (EU) 2016/679 or following notification by the ECDC.

(4) Each EWRS competent authority shall implement appropriate technical and organisational measures, designed to:

(a) ensure and protect the security, integrity and confidentiality of the personal data jointly processed;

(b) protect against any unauthorised or unlawful processing, loss, use, disclosure or acquisition of or access to any personal data in its possession;

(c) ensure that access to the personal data is not disclosed or allowed to anyone other than the recipients or processors.

SECTION 4

Data Protection Impact Assessment

If a controller, in order to comply with its obligations specified in Articles 35 and 36 of Regulation (EU) 2016/679, needs information from another controller, it shall send a specific request to the functional mailbox referred to in Subsection 1(5) of Section 1. The latter shall use its best efforts to provide such information.

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* Regulation (EU) 2016/679 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 (OJ L 119, 4.5.2016, p. 1).

ANNEX III

RESPONSIBILITIES OF THE ECDC AS DATA PROCESSOR FOR THE PLF EXCHANGE PLATFORM

(1) The ECDC shall set up and ensure a secure and reliable communication infrastructure that interconnects EWRS competent authorities of the Member States participating in the PLF exchange platform.

The processing by the ECDC of the PLF exchange platform entails the following:

(a) define the minimum set of technical requirements to allow a smooth and secure on-boarding and off-boarding of national PLF databases;

(b) ensure interoperability of national PLF databases in a secure and automated fashion.

(2) To fulfil its obligations as data processor of the PLF exchange platform, the ECDC shall engage the Commission as a sub-processor and shall ensure that the same data protection obligations, as set out in this Decision, apply to the Commission.

The ECDC may authorise the Commission to engage third parties as further sub-processors.

If the Commission engages sub-processors, the ECDC shall:

(a) ensure that the same data protection obligations, as set out in this Decision, apply to these sub-processors;

(b) inform the controllers of any intended changes concerning the addition or replacement of other sub-processors, thereby giving the controllers the opportunity to object by simple majority to such changes.

(3) The ECDC shall:

(a) set up and ensure a secure and reliable communication infrastructure that interconnects EWRS competent authorities of the Member States participating in the PLF exchange platform;

(b) process the PLF and additional epidemiological data, only based on documented instructions from the controllers, unless required to do so by Union law; in such a case, the ECDC shall inform the controllers of that legal requirement before processing, unless that law prohibits submitting such information on important grounds of public interest.

(c) put in place a security plan, a business continuity and a disaster recovery plan.

(d) take the necessary measures to preserve the integrity of the PLF and additional epidemiological data processed;

(e) take all state of the art organisational, physical and electronic security measures to maintain the PLF exchange platform; to this end, the ECDC shall:

(i) designate a responsible entity for security management at the level of the PLF exchange platform, communicate its contact information to the controllers and ensure its availability to react to security threats;

(ii) assume the responsibility for the security of the PLF exchange platform;

(iii) ensure that all individuals that are granted access to the PLF exchange platform are subject to contractual, professional or statutory obligation of confidentiality;

(f) take all necessary security measures to avoid compromising the smooth operational functioning of the PLF exchange platform; to this end, the ECDC shall put in place specific procedures related to the functioning of the PLF exchange platform and the connection from the backend servers to the PLF exchange platform; this includes:

(i) a risk assessment procedure, to identify and estimate potential threats to the system;

(ii) an audit and review procedure to:

1) check the correspondence between the implemented security measures and the applicable security policy;

2) control on a regular basis the integrity of system files, security parameters and granted authorisations;

3) detect and monitor security breaches and intrusions;

4) implement changes to mitigate existing security weaknesses;

5) allow for, including at the request of controllers, and contribute to, the performance of independent audits, including inspections, and reviews on security measures, subject to conditions that respect Protocol (No 7) to the TFEU on the Privileges and Immunities of the European Union (2);

(iii) changing the control procedure to document and measure the impact of a change before its implementation and keep the controllers informed of any changes that can affect the communication with and/or the security of their infrastructures;

(iv) laying down a maintenance and repair procedure to specify the rules and conditions to be respected when maintenance and/or repair of equipment should be performed;

(v) laying down a security incident procedure to define the reporting and escalation scheme, inform without delay the controllers for them to notify the national data protection supervisory authorities of any personal data breach, and define a disciplinary process to deal with security breaches;

(g) take state of the art physical and/or electronic security measures for the facilities hosting the PLF exchange platform equipment and for the controls of data and security access; to this end, ECDC shall:

(i) enforce physical security to establish distinct security perimeters and allow detection of breaches;

(ii) control access to the facilities and maintain a visitor register for tracing purposes;

(iii) ensure that external people granted access to the premises are escorted by duly authorised staff;

(iv) ensure that equipment cannot be added, replaced or removed without prior authorisation of the designated responsible bodies;

(v) control access from and to the national PLF systems to the PLF exchange platform;

(vi) ensure that individuals who access the PLF exchange platform are identified and authenticated;

(vii) review the authorisation rights related to the access to the PLF exchange platform in case of a security breach affecting this infrastructure;

(viii) implement technical and organisational security measures to prevent unauthorised access to PLF and epidemiological data;

(ix) implement, whenever necessary, measures to block unauthorised access to the PLF exchange platform from the domain of the national authorities (i.e.: block a location/IP address);

(h) take steps to protect its domain, including the severing of connections, in the event of substantial deviation from the principles and concepts for quality or security;

(i) maintain a risk management plan related to its area of responsibility;

(j) monitor – in real time – the performance of all the service components of the PLF exchange platform, produce regular statistics and keep records;

(k) make sure that the service is available 24/7, with the acceptable downtime for maintenance purposes;

(l) provide support for all PLF exchange platform services in English, via phone, mail or Web Portal and accept calls from authorised callers: the PLF exchange platform's coordinators and their respective helpdesks, Project Officers and designated persons from ECDC;

(m) assist the controllers by appropriate technical and organisational measures, insofar as it is possible, for the fulfilment of the controller's obligation to respond to requests for exercising the data subject's rights laid down in Chapter III of Regulation (EU) 2016/679;

(n) support the controllers by providing information concerning the PLF exchange platform, in order to implement the obligations pursuant to Articles 32, 35 and 36 of Regulation (EU) 2016/679;

(o) ensure that PLF and epidemiological data transmitted through the PLF exchange platform is unintelligible to any person who is not authorised to access it, in particular by applying strong encryption;

(p) take all relevant measures to prevent that the PLF exchange platform's operators have unauthorised access to transmitted PLF and epidemiological data;

(q) take measures in order to facilitate the interoperability and the communication between the PLF exchange platform's designated controllers;

(r) maintain a record of processing activities carried out on behalf of the controllers in accordance with Article 31(2) of Regulation (EU) 2018/1725 of the European Parliament and of the Council.'