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EUROPEAN UNION AGENCY
FOR FUNDAMENTAL RIGHTS

CONTRACT AMENDMENT N° 1

TO FRAMEWORK CONTRACT N° F-SE-17-T11-C08-L03 – Lot 03 – Czech Republic

FRANET - Data collection and research services on fundamental rights issues

1. The European Union Agency for Fundamental Rights (hereinafter referred to as "the contracting authority"), with its seat at Schwarzenbergplatz 11, A-1040 Vienna, Austria, which is represented for the purposes of the signature of this contract amendment by Michael O'Flaherty, Director,

of the one part, and

2. Institute of Sociology of the Academy of Sciences of the Czech Republic

Public research institution

Reg. No 68378025

Jilská 361/1

11000, Prague

Czech Republic

VAT No CZ68378025

'the contractor', represented for the purposes of the signature of this amendment by Mr Tomas Kostelecký, Director

on the other part,

HAVING REGARD to the framework contract N° F-SE-17-T11-C08-L03 ['the FWC') concluded between the contracting authority and the contractor on 07/11/2018,

WHEREAS Articles I.9 and II.9 of the FWC provide for the processing of personal data for the purposes of the implementation of the FWC in accordance with Regulation (EU) No 45/2001[1];

WHEREAS Regulation (EU) No 2018/1725[2], repealing Regulation (EU) No 45/2001, entered into force after the signature of the FWC;

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[1]   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

WHEREAS the contracting authority has informed the contractor of its intention to amend the FWC to ensure compliance with Regulation (EU) No 2018/1725 in the processing of personal data by the contractor for the purposes of the implementation of the contract;

HAVE AGREED AS FOLLOWS:

Article 1

Article I.9 of the FWC shall be replaced as follows:

"I.9.1 Processing of personal data by the contracting authority

For the purpose of Article II.9.1,

(a) the data controller is the European Union Agency for Fundamental Rights, represented by its Director;

(b) the data protection notice is available at https://ec.europa.eu/info/data-protection-public-procurement-procedures_en.

I.9.2 Processing of personal data by the contractor

For the purpose of Article II.9.2,

(a) the subject matter and purpose of the processing of personal data by the contractor is the provision of FRANET - Data collection and research services on fundamental rights issues to the contracting authority, for:

L03 - Czech Republic;

(b) The localisation of and access to the personal data processed by the contractor shall comply with the following:

 i. the personal data shall only be processed within the territory of *the European Union and the European Economic Area* and will not leave that territory;

 ii. the data shall only be held in data centres located with the territory of *the European Union and the European Economic Area;*

 iii. no access shall be given to such data outside of *the European Union and the European Economic Area;*

 iv. the contractor may not change the location of data processing without the prior written authorisation of the contracting authority;

 v. any transfer of personal data under the contract to third countries or

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[2] Regulation (EU) 2018/1725 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

international organisations shall fully comply with the requirements laid down in Chapter V of Regulation (EU) 2018/1725."

Article 2

Article II.9 of the FWC shall be replaced as follows:

"II.9.1   Processing of personal data by the contracting authority

Any personal data included in or relating to the contract, including its implementation, shall be processed in accordance with Regulation (EU) 2018/1725. Such data shall be processed solely for the purposes of the implementation, management and monitoring of the contract by the data controller.

The contractor or any other person whose personal data is processed by the data controller in relation to this contract has specific rights as a data subject under Chapter III (Articles 14-25) of Regulation (EU) 2018/1725, in particular the right to access, rectify or erase their personal data and the right to restrict or, where applicable, the right to object to processing or the right to data portability.

Should the contractor or any other person whose personal data is processed in relation to this contract have any queries concerning the processing of its personal data, it shall address itself to the data controller. They may also address themselves to the Data Protection Officer of the data controller. They have the right to lodge a complaint at any time to the European Data Protection Supervisor.

Details concerning the processing of personal data are available in the data protection notice referred to in Article I.9.

II.9.2 Processing of personal data by the contractor

The processing of personal data by the contractor shall meet the requirements of Regulation (EU) 2018/1725 and be processed solely for the purposes set out by the controller.

The contractor shall assist the controller for the fulfilment of the controller's obligation to respond to requests for exercising rights of person whose personal data is processed in relation to this contract as laid down in Chapter III (Articles 14-25) of Regulation (EU) 2018/1725. The contractor shall inform without delay the controller about such requests.

The contractor may act only on documented written instructions and under the supervision of the controller, in particular with regard to the purposes of the processing, the categories of data that may be processed, the recipients of the data and the means by which the data subject may exercise its rights.

The contractor shall grant personnel access to the data to the extent strictly necessary for the implementation, management and monitoring of the contract. The contractor must ensure that personnel authorised to process personal data has committed itself to confidentiality or is under appropriate statutory obligation of confidentiality in accordance

with the provisions of Article II.8.

The contractor shall adopt appropriate technical and organisational security measures, giving due regard to the risks inherent in the processing and to the nature, scope, context and purposes of processing, in order to ensure, in particular, as appropriate:

(a) the pseudonymisation and encryption of personal data;

(b) the ability to ensure the ongoing confidentiality, integrity, availability and resilience of processing systems and services;

(c) the ability to restore the availability and access to personal data in a timely manner in the event of a physical or technical incident;

(d) a process for regularly testing, assessing and evaluating the effectiveness of technical and organisational measures for ensuring the security of the processing;

(e) measures to protect personal data from accidental or unlawful destruction, loss, alteration, unauthorised disclosure of or access to personal data transmitted, stored or otherwise processed.

The contractor shall notify relevant personal data breaches to the controller without undue delay and at the latest within 48 hours after the contractor becomes aware of the breach. In such cases, the contractor shall provide the controller with at least the following information:

(a) nature of the personal data breach including where possible, the categories and approximate number of data subjects concerned and the categories and approximate number of personal data records concerned;

(b) likely consequences of the breach;

(c) measures taken or proposed to be taken to address the breach, including, where appropriate, measures to mitigate its possible adverse effects.

The contractor shall immediately inform the data controller if, in its opinion, an instruction infringes Regulation (EU) 2018/1725, Regulation (EU) 2016/679, or other Union or Member State data protection provisions as referred to in the tender specifications.

The contractor shall assist the controller for the fulfilment of its obligations pursuant to Article 33 to 41 under Regulation (EU) 2018/1725 to:

(a) ensure compliance with its data protection obligations regarding the security of the processing, and the confidentiality of electronic communications and directories of users;

(b) notify a personal data breach to the European Data Protection Supervisor;

(c) communicate a personal data breach without undue delay to the data subject, where applicable;

(d) carry out data protection impact assessments and prior consultations as necessary.

The contractor shall maintain a record of all data processing operations carried on behalf of the controller, transfers of personal data, security breaches, responses to requests for

exercising rights of people whose personal data is processed and requests for access to personal data by third parties.

The contracting authority is subject to Protocol 7 of the Treaty on the Functioning of the European Union on the privileges and immunities of the European Union, particularly as regards the inviolability of archives (including the physical location of data and services as set out in Article I.9.2) and data security, which includes personal data held on behalf of the contracting authority in the premises of the contractor or subcontractor.

The contractor shall notify the contracting authority without delay of any legally binding request for disclosure of the personal data processed on behalf of the contracting authority made by any national public authority, including an authority from a third country. The contractor may not give such access without the prior written authorisation of the contracting authority.

The duration of processing of personal data by the contractor will not exceed the period referred to in Article II.24.2. Upon expiry of this period, the contractor shall, at the choice of the controller, return, without any undue delay in a commonly agreed format, all personal data processed on behalf of the controller and the copies thereof or shall effectively delete all personal data unless Union or national law requires a longer storage of personal data.

For the purpose of Article II.10, if part or all of the processing of personal data is subcontracted to a third party, the contractor shall pass on the obligations referred to in Articles I.9.2 and II.9.2 in writing to those parties, including subcontractors. At the request of the contracting authority, the contractor shall provide a document providing evidence of this commitment."

Article 3

All other references in the FWC to Regulation (EU) 45/2001 shall be construed as references to Regulation (EU) 2018/1725.

All other provisions of the FWC shall remain unchanged and shall continue to apply for the period of performance indicated in Article 1.3 of the FWC.

Article 4

The present amendment shall form an integral part of the `FWC and it shall enter into force after signature by the last contracting party.

SIGNATURES

For the contractor,

Tomas Kostelecký

Director

For the contracting authority,

Michael O'Flaherty

Director

signature[s]:

Done at

In duplicate in English.

signatur

Done at