

Commission Decision (EU, Euratom) 2015/444 of 13 March 2015
on the security rules for protecting EU classified information

CHAPTER 7

**EXCHANGE OF CLASSIFIED INFORMATION WITH OTHER UNION
INSTITUTIONS, AGENCIES, BODIES AND OFFICES, WITH MEMBER STATES,
AND WITH THIRD STATES AND INTERNATIONAL ORGANISATIONS**

Article 51

Basic principles

1 Where the Commission or one of its departments determines that there is a need to exchange EUCI with another Union Institution, agency, body or office, or with a third State or international organisation, the necessary steps shall be undertaken to establish an appropriate legal or administrative framework to that effect, which may include security of information agreements or administrative arrangements concluded in accordance with the relevant regulations.

2 Without prejudice to Article 57, EUCI shall only be exchanged with another Union Institution, agency, body or office, or with a third State or international organisation, provided such an appropriate legal or administrative framework is in place, and that there are sufficient guarantees that the Union Institution, agency, body or office, or the third State or international organisation concerned applies equivalent basic principles and minimum standards for the protection of classified information.

Article 52

Exchange of EUCI with other Union institutions, agencies, bodies and offices

1 Before entering into an administrative arrangement for the exchange of EUCI with another Union Institution, agency, body or office, the Commission shall seek assurance that the Union Institution, agency, body or office concerned:

- a has a regulatory framework for the protection of EUCI in place, which lays down basic principles and minimum standards equivalent to those laid down in this Decision and its implementing rules;
- b applies security standards and guidelines regarding personnel security, physical security, management of EUCI and security of Communication and Information Systems (CIS), which guarantee an equivalent level of protection of EUCI as that afforded in the Commission.
- c marks classified information which it creates, as EUCI.

2 The Directorate-General Human Resources and Security shall, in close cooperation with other competent Commission departments, be the lead service within the Commission for the conclusion of administrative arrangements for the exchange of EUCI with other Union institutions, agencies, bodies or offices.

Changes to legislation: There are currently no known outstanding effects for the Commission Decision (EU, Euratom) 2015/444, CHAPTER 7. (See end of Document for details)

3 Administrative arrangements shall as a general rule take the form of an Exchange of Letters, signed by the Director-General for Human Resources and Security on behalf of the Commission.

4 Before entering into an administrative arrangement on the exchange of EUCI, the Commission Security Authority shall conduct an assessment visit aimed at assessing the regulatory framework for protecting EUCI and ascertaining the effectiveness of measures implemented for protecting EUCI. The administrative arrangement shall enter into force, and EUCI shall be exchanged, only if the outcome of this assessment visit is satisfactory and the recommendations made further to the visit have been complied with. Regular follow-up assessment visits shall be conducted to verify that the administrative arrangement is complied with and the security measures in place continue to meet the basic principles and minimum standards agreed.

5 Within the Commission, the EUCI registry managed by the Secretariat General shall, as a general rule, be the main point of entry and exit for classified information exchanges with other Union institutions, agencies, bodies and offices. However, where on security, organisational or operational grounds it is more appropriate for protecting EUCI, local EUCI registries established within Commission departments in accordance with this Decision and its implementing rules, shall operate as the point of entry and exit for classified information regarding matters within the competence of the Commission departments concerned.

6 The Commission Security Expert Group shall be informed of the process of concluding administrative arrangements pursuant to paragraph 2.

Article 53

Exchange of EUCI with Member States

1 EUCI may be exchanged with and released to Member States provided that they protect that information in accordance with the requirements applicable to classified information bearing a national security classification at the equivalent level as set out in the table of equivalence of security classifications contained in Annex I.

2 Where Member States introduce classified information bearing a national security classification marking into the structures or networks of the European Union, the Commission shall protect that information in accordance with the requirements applicable to EUCI at the equivalent level as set out in the table of equivalence of security classifications contained in Annex I.

Article 54

Exchange of EUCI with third States and international organisations

1 Where the Commission determines that it has a long-term need to exchange classified information with third States or international organisations, the necessary steps shall be undertaken to establish an appropriate legal or administrative framework to that effect, which may include security of information agreements or administrative arrangements concluded in accordance with the relevant regulations.

2 Such security of information agreements and administrative agreements referred to in paragraph 1 shall contain provisions to ensure that when third States or international organisations receive EUCI, such information is given protection appropriate to its classification

level and according to minimum standards which are equivalent to those laid down in this Decision.

3 The Commission may enter into administrative arrangements in accordance with Article 56 where the classification level of EUCI is as a general rule no higher than RESTREINT UE/EU RESTRICTED.

4 Administrative arrangements for the exchange of classified information referred to in paragraph 3 shall contain provisions to ensure that when third States or international organisations receive EUCI, such information is given protection appropriate to its classification level and according to minimum standards which are equivalent to those laid down in this Decision. The Commission Security Expert Group shall be consulted on the conclusion of security of information agreements or administrative arrangements.

5 The decision to release EUCI originating in the Commission to a third State or international organisation shall be taken by the Commission department, as originator of this EUCI within the Commission, on a case-by-case basis, according to the nature and content of such information, the recipient's need-to-know and the measure of advantage to the Union. If the originator of the classified information for which release is desired, or of the source material it may contain, is not the Commission, the Commission department which holds this classified information, shall first seek the originator's written consent to release. If the originator cannot be established, the Commission department, which holds this classified information, shall assume the former's responsibility after consulting the Commission Security Expert Group.

Article 55

Security of information agreements

1 Security of information agreements with third states or international organisations are concluded in accordance with Article 218 TFEU.

2 Security of information agreements shall:

- a establish the basic principles and minimum standards governing the exchange of classified information between the Union and a third State or international organisation;
- b provide for technical implementing arrangements to be agreed between the competent security authorities of the relevant Union institutions and bodies and the competent security authority of the third State or international organisation in question. Such arrangements shall take account of the level of protection provided by the security regulations, structures and procedures in place in the third State or international organisation concerned;
- c provide that prior to the exchange of classified information under the agreement, it shall be ascertained that the receiving party is able to protect and safeguard classified information provided to it in an appropriate manner.

3 The Commission shall, when a need to exchange classified information is determined according to Article 51(1), consult the European External Action Service, the General Secretariat of the Council and other Union institutions and bodies, where appropriate, in order to determine whether a recommendation according to Article 218(3) TFEU should be submitted.

4 No EUCI shall be exchanged by electronic means unless explicitly provided for in the security of information agreement or technical implementing arrangements.

5 Within the Commission, the EUCI registry managed by the Secretariat-General shall, as a general rule, be the main point of entry and exit for classified information exchanges

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with third States and international organisations. However, where on security, organisational or operational grounds it is more appropriate for protecting EUCI, local EUCI registries established within Commission departments in accordance with this Decision and its implementing rules, shall operate as the point of entry and exit for classified information regarding matters within the competence of the Commission departments concerned.

6 In order to assess the effectiveness of the security regulations, structures and procedures in the third State or international organisation concerned, the Commission shall, in collaboration with other Union institutions, agencies or bodies, participate in assessment visits, in mutual agreement with the third State or international organisation concerned. Such assessment visits shall evaluate:

- a the regulatory framework applicable for protecting classified information;
- b any specific features of the security policy and the way in which security is organised in the third State or international organisation which may have an impact on the level of classified information that may be exchanged;
- c the security measures and procedures actually in place; and
- d security clearance procedures for the level of EUCI to be released.

Article 56

Administrative arrangements

1 Where a long-term need exists in the context of a Union political or legal framework to exchange information classified as a general rule no higher than RESTREINT UE/EU RESTRICTED with a third State or international organisation, and where the Commission Security Authority, after consulting the Commission Security Expert Group, has established, in particular, that the party in question does not have a sufficiently developed security system for it to be possible to enter into a security of information agreement, the Commission may decide to enter into an administrative arrangement with the relevant authorities of the third State or international organisation in question.

2 Such administrative arrangements shall as a general rule take the form of an Exchange of Letters.

3 An assessment visit shall be conducted prior to the conclusion of the arrangement. The Commission Security Expert Group shall be informed of the outcome of the assessment visit. Where there are exceptional reasons for exchanging classified information urgently, EUCI may be released provided every attempt is made to conduct an assessment visit as soon as possible.

4 No EUCI shall be exchanged by electronic means unless explicitly provided for in the administrative arrangement.

Article 57

Exceptional ad hoc release of EUCI

1 Where no security of information agreement or administrative arrangement is in place, and where the Commission or one of its departments determines that there is an exceptional need in the context of an Union political or legal framework to release EUCI to a third State or international organisation, the Commission Security Authority shall, to the extent possible, verify with the security authorities of the third State or international organisation concerned

that its security regulations, structures and procedures are such that EUCI released to it will be protected to standards no less stringent than those laid down in this Decision.

2 The decision to release the EUCI to the third State or international organisation concerned, shall, after consultation of the Commission Security Expert Group, be taken by the Commission on the basis of a proposal by the member of the Commission responsible for security matters.

3 Following the Commission's decision to release EUCI and subject to prior written consent of originator, including the originators of source material it may contain, the competent Commission department shall forward the information concerned, which shall bear a releasability marking indicating the third State or international organisation to which it has been released. Prior to or upon actual release, the third party in question shall undertake in writing to protect the EUCI it receives in accordance with the basic principles and minimum standards set out in this Decision.

Changes to legislation:

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