

## **Information and declaration of consent under Article 6 paragraph 6 and 7 Data Protection Act (DPA) on processing data within the scope of the Global Entry Program**

### **A) General information**

**Swiss nationals** (hereinafter referred to as 'participants') may participate on a voluntary basis in the Global Entry Program of the U.S. Customs and Border Protection (CBP) and hence benefit from expedited travel procedures for entering the United States of America (U.S.A.) at selected U.S. airports.

Participation in the Global Entry Program involves a two-step procedure. In a first step, the Federal Office of Police (fedpol) will carry out a preclearance check of participants (hereinafter referred to as "fedpol preclearance"). This check is subject to a fee. If participants successfully complete this step, CBP will be notified. In a second step, CBP will conduct its own security check of participants. Acceptance of participation in the Global Entry Program is solely at the discretion of CBP.

The purpose of fedpol preclearance is to verify whether participants can be granted "low-risk traveler" status. This is the case if participants do not have an entry in any of the three databases named hereafter under B). "Low-risk traveler" status is granted solely at the discretion of CBP and in accordance with applicable U.S. law.

Participants who have been granted "low-risk traveler" status can benefit, for a period of five years, from simplified procedures of immigration and border controls at U.S. airports. All other travelers are subject to the applicable entry procedures for the U.S.A. This does not have any disadvantages or negative consequences for travelers.

To process participants' personal data, fedpol requires a declaration of consent (see E)).

### **B) What fedpol preclearance involves**

Fedpol checks whether participants are registered in any of the following databases:

- Register of Criminal Convictions (extract for private individuals). Statutory provisions: Ordinance on the Register of Criminal Convictions (VOSTRA Ordinance; SR 331).
- RIPO database (national database containing alerts on missing or wanted persons and missing or stolen objects/vehicles). Statutory provisions: Ordinance on the Automated Search System (RIPO Ordinance; SR 172.213.61)
- N-SIS (national section of the Schengen Information System). Statutory provisions: Ordinance on the National Section of the Schengen Information System and the SIRENE Bureau (N-SIS Ordinance; SR 362.0).

### **C) The fedpol preclearance procedure**

1. Participants with the exception of minors under 10 years order their own criminal records extract for private individuals from the Federal Office of

Justice. This can be ordered online<sup>1</sup> or by any branch of the Swiss Post Office.

2. The following information must be submitted by electronic means:
  - a. Surname, first name(s), date of birth, postal address;
  - b. A **color scan** of the original **criminal records' extract**, not older than 3 months, date of issue must be visible at the bottom of the page;
  - c. A **legible color scan** of their **Swiss passport**;
  - d. the signed **Declaration of Consent** form;

**Please note that the transfer of data is exclusively electronic.**

3. Once all the above-mentioned documents have been submitted, fedpol checks whether participants have a criminal record or are registered in the RIPOL or N-SIS database. This procedure fulfils the data protection requirements concerning the right to obtain information.
4. If participants are not registered in any of the databases, fedpol preclearance is complete and participants are considered to be a "low-risk" traveler. Participants receive by e-mail confirmation of this status. In addition, fedpol transmits participants' first names, surname, date of birth and passport number to CBP in the U.S.A. The data is transmitted via an encrypted communication channel, thus maintaining data security.
5. If, on the other hand, participants are registered in one of the databases, fedpol preclearance is not granted. Participants only are informed of this fact in writing. Fedpol does not transmit participants' personal data to any national or international agency, nor does it reimburse any fees.
6. The subsequent security check by CBP is conducted independently and exclusively under the provisions of U.S. law. The security check is completely independent of fedpol and/or other Swiss authorities, institutions or services. To initiate the U.S. security check, participants must register on the CBP's Global Entry Program website<sup>2</sup> promptly and follow the appropriate instructions.
7. If participants want to withdraw their request to be part of the Global Entry Program, the fee will be refunded if the request has not been treated yet. Otherwise, there is not refund.

#### **D) Disclosure of first names, surname, date of birth and passport number to CBP in the U.S.A. on successful completion of fedpol preclearance**

As part of fedpol preclearance for the Global Entry Program, fedpol handles particularly sensitive personal data under Article 3 letter c number 4 Data Protection Act (DPA; SR 235.1).

Under Article 6 paragraph 1 Data Protection Act (Cross-border disclosure), personal data may not be disclosed abroad if disclosure would seriously endanger the privacy of the data subjects, in particular due to the absence of legislation that guarantees

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<sup>1</sup> [https://www.e-service.admin.ch/crex/cms/content/strafregister/strafregister\\_en](https://www.e-service.admin.ch/crex/cms/content/strafregister/strafregister_en)

<sup>2</sup> <http://www.cbp.gov/travel/trusted-traveler-programs/global-entry>

adequate protection. Moreover, under Article 7 Data Protection Ordinance (DPO; SR 235.11), the Federal Data Protection and Information Commissioner (FDPIC) shall publish a list of the states whose legislation ensures an adequate level of protection<sup>3</sup>. According to this list of states, the U.S.A. does not provide an adequate level of protection. For this reason, participants must consent under Article 6 paragraph 2 letter b Data Protection Act to the disclosure of their first names, surname, date of birth and passport number to CBP in the U.S.A. (see below).

Participants acknowledge that personal data disclosed abroad is no longer under the control of fedpol or participants themselves. Moreover, under U.S. legislation, it is possible that other U.S. authorities and/or the CBP process the disclosed personal data potentially for other purposes.

### E) Declaration of consent

I,

<b>First names</b>	
<b>Surname</b>	
<b>Date of birth</b>	
<b>Passport number</b>	
<b>Street, number</b>	
<b>Postcode, Town</b>	
<b>E-mail address</b>	

do hereby declare my voluntary and explicit consent to having my personal data processed by the Federal Office of Police (fedpol) according to the provisions of A) to D) above, for the purpose of the Global Entry Program. I understand that fedpol will not disclose or transmit the data to third parties.

This Declaration of Consent can be revoked at any time and without stating the reasons before the data is processed. Revocation applies to any future processing of data.

Place		Date		Signature*	
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\*In the case of minors, the person(s) with legal guardianship

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<sup>3</sup> <https://www.edoeb.admin.ch/edoeb/en/home/data-protection/handel-und-wirtschaft/transborder-data-flows.html>