

PROTECTION OF YOUR PERSONAL DATA

This privacy statement provides information about the processing and the protection of your personal data.

Processing operation: ELA data processing related to leave/absence/compensation management

Data Controller: European Labour Authority, Resources Unit, HR Sector (ELA HR Sector)

Record reference: DPR-ELA-2022-0028

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1. Introduction

The European Labour Authority (hereafter 'ELA') is committed to protect your personal data and to respect your privacy. ELA collects and further processes personal data pursuant to [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 (repealing Regulation (EC) No 45/2001).

This privacy statement explains the reason for the processing of your personal data, the way we collect, handle and ensure protection of all personal data provided, how that information is used and what rights you have in relation to your personal data. It also specifies the contact details of the responsible Data Controller with whom you may exercise your rights, the Data Protection Officer and the European Data Protection Supervisor.

The information in relation to processing operation "*ELA data processing related to leave/absence/compensation management*" undertaken by ELA HR Sector is presented below.

2. Why and how do we process your personal data?

Purpose of the processing operation: ELA HR Sector collects and uses your personal information to achieve a sound and efficient handling of staff members' rights and entitlements regarding to leave (annual leave, special leave, sick leave, part-time, parental leave, family leave and leave on personal grounds).

ELA manages this process through a specific tool: SYSPER 2. Since SYSPER 2 is a tool managed by the European Commission (i.e. DG Human Resources is the system owner and parts of the tasks as subcontracted to DG DIGIT under a separate agreement, there is a controller and processor relationship between the ELA and the European Commission).

Your personal data will not be used for an automated decision-making including profiling.

3. On what legal ground(s) do we process your personal data

We process your personal data, because, according to article 5(1)(a) of Regulation (EU)2018/1725, the processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the Union institution or body.

Legal basis:

- Regulation (EU) 2019/1149 of the European Parliament and of the Council of 20 June 2019 establishing a European Labour Authority.
- Staff Regulations, Articles 57 - 60 and Annex 5.
- Conditions of Employment of Other Servants, Articles 11, 16, 17, 18, 58, 81 and 91.

For particular legal basis considering the different types of absences, please refer to the record this Privacy Statement belongs: DPR-ELA-2022-0028 ELA data processing related to leave/absence/compensation management.

We process **special categories of personal data**, therefore Article 10 of the Regulation applies. In particular: The data processed may concern trade union membership (in case of other absence), genetic data, data concerning health in case of sick leaves and special leaves and/or data concerning a natural person's sexual orientation in case of special leaves.

We process special categories of personal data indicated in Section 4, because:

(b) the processing is necessary for the purposes of carrying out the obligations and exercising specific rights of the controller or of the data subject in the field of employment and social security and social protection law insofar as it is authorised by Union law providing for appropriate safeguards for the fundamental rights and the interests of the data subject;

(f) the processing is necessary for the establishment, exercise or defence of legal claims or whenever the Court of Justice is acting in its judicial capacity;

(g) the processing is necessary for reasons of substantial public interest, on the basis of Union law which shall be proportionate to the aim pursued, respect the essence of the right to data protection and provide for suitable and specific measures to safeguard the fundamental rights and the interests of the data subject;

(h) the processing is necessary for the purposes of preventive or occupational medicine, for the assessment of the working capacity of the employee, medical diagnosis, the provision of health or social care or treatment or the management of health or social care systems and services on the basis of Union law or pursuant to contract with a health professional and subject to the conditions and safeguards referred to in paragraph 3.

4. Which personal data do we collect and further process?

In order to carry out this processing operation ELA HR Sector collects the following categories of personal data:

For all types of leaves/absences/recuperation (Annual leave, Recuperation , Special leave, Sick leave, Other absence)

Mandatory information:

Name, personal number, dates of leave/ absence/ sickness/recuperation,

Additional information (non-mandatory information): Reasoning, address, telephone number, comment.

For sick leaves

Mandatory information: Absence with/without medical certificate

Medical certificate will need to be sent to the European Commission Medical Service.

For special leaves

Specific documentation supporting the request (e.g. certificates of marriage, birth, adoption of a child, death of relatives, proof of participation on a specific competition, exam, volunteering activity, parents).

Possible travelling time: Country, ZIP code and City.

In case of sick leave, family leave and special leave, information related to health (the fact that the data subject or one of his/her relative is sick) or relationship (name of the partner) may be collected. In specific cases of chronic serious illness of a relative, a medical certificate that must include enough information for the Medical Service to form an opinion on the seriousness of the illness and, if applicable, of its chronic nature.

This leave request requires the applicant to send one or more supporting documents to the ELA leave manager (ELA GECCO Team) within two weeks.

The provision of personal data is mandatory to meet a legal and statutory requirement: Staff Regulations. If you do not provide your personal data, we will not be able to fulfil our responsibilities.

5. How long do we keep your personal data?

ELA HR Sector only keeps your personal data for the time necessary to fulfil the purpose of collection or further processing, namely for:

- Data related to an annual leave request: Maximum 3 years
- Data related to a sick leave request: Maximum 5 years
- Medical certificate: 18 months
- Data related to a recuperation request: Maximum of 5 years
- Data related to a special/other absence leave request: Maximum of 5 years

In general, data are kept for 5 years (more in the event of an appeal) except where a different time limit is specified below.

The retention of data on sick leave for at least 3 years is justified by the implementation of Article 59 (4) of the Staff Regulations but is extended to 5 years in order to cover possible disputes. Where an employee moves to another institution, only data concerning sick leave over the previous 5 years are passed on.

The retention of data on days of annual leave may be justified in the case of carry-over from one year to the next but should not exceed the following year and will therefore be limited to 2 years (at the beginning of the calendar year “n” the data for year “n-3” is no longer accessible).

Data on part-time work, parental and family leave are, as a general rule, kept at least until employment at the European Union institution has ceased and even beyond that (as they relate to a continuing entitlement and the possibility of an appeal remains). Data for cases of serious difficulty are kept for 3 years.

Flexitime data are kept for the current calendar year. They shall be deleted after the end of the transfer procedure to the following year for days of annual leave not taken and at the latest by the end of March of the following year.

6. How do we protect and safeguard your personal data?

All personal data in electronic format (e-mails, documents, databases, uploaded batches of data, etc.) are stored either on the servers of the European Labour Authority or of its contractors.

ELA’s contractors are bound by a specific contractual clause for any processing operations of your data on behalf of ELA, and by the confidentiality obligations deriving directly from the General Data Protection Regulation in the EU Member States (‘GDPR’ Regulation (EU) 2016/679.)

In order to protect your personal data, ELA has put in place a number of technical and organisational measures in place. Technical measures include appropriate actions to address online security, risk of data loss, alteration of data or unauthorised access, taking into consideration the risk presented by the processing and the nature of the personal data being processed. Organisational measures include restricting access to the personal data solely to authorised persons with a legitimate need to know for the purposes of this processing operation.

7. Who has access to your personal data and to whom is it disclosed?

Access to your personal data is provided to ELA staff responsible for carrying out this processing operation and to authorised staff according to the “need to know” principle. Such staff abide by statutory, and when required, additional confidentiality agreements.

The access to the personal data is granted on the basis of the role and responsibilities of the subjects involved ("need to know" principle):

Within the ELA: The personal data of the data subjects is processed by the ELA authorised staff: line manager of the data subject (Head of Unit/Director), ELA HR, Head of Unit RES, Director. Access will be given to the Internal Auditor of the ELA by request and if necessary for the performance of the duties of the Internal Auditor: depending on the nature and the scope of the specific audit, the Internal Auditor will be given access to personal data which is relevant for and serves the purpose of the specific audit exercise.

Within the Commission and ELA (as such for other EU institutions/bodies/agencies):

Since SYSPER 2 is a tool managed by the European Commission (i.e. DG HR is the system owner and parts of the tasks as subcontracted to DG DIGIT under a separate agreement, such as technical support related to the implementation and operation of SYSPER 2 modules, hosting of SYSPER 2 and other components, analysis of technical nature in relation to providing additional modules and services), there is a controller and processor relationship between the ELA and the European Commission:

- Controller: the ELA enters data in the system, processes the data and ensures its accuracy.
- Processor: DG HR and DG DIGIT maintain the system and provide technical support, business support with relation to the system (e.g. if a specific requests that could not be solved within the ELA Local Support Team)

Please note that pursuant to Article 3(13) of the Regulation, public authorities (e.g. Court of Auditors, EU Court of Justice) which may receive personal data in the framework of a particular inquiry in accordance with Union or Member State law shall not be regarded as recipients. The processing of those data by those public authorities shall be in compliance with the applicable data protection rules according to the purposes of the processing.

The information we collect will not be given to any third party, except to the extent and for the purpose we may be required to do so by law.

8. What are your rights and how can you exercise them?

You have specific rights as a 'data subject' under Chapter III (Articles 14-25) of Regulation (EU) 2018/1725, in particular the right to access, your personal data and to rectify them in case your personal data are inaccurate or incomplete. Where applicable, you have the right to erase your personal data, to restrict the processing of your personal data, to object to the processing, and the right to data portability.

You have the right to object to the processing of your personal data, which is lawfully carried out pursuant to Article 5(1)(a) on grounds relating to your particular situation.

You can exercise your rights by contacting the Data Controller, or in case of conflict the Data Protection Officer. If necessary, you can also address the European Data Protection Supervisor. Their contact information is given under Heading 9 below.

Where you wish to exercise your rights in the context of one or several specific processing operations, please provide their description (i.e. their Record reference(s) as specified under Heading 10 below) in your request.

9. Contact information

- The Data Controller

If you would like to exercise your rights under Regulation (EU) 2018/1725, or if you have comments, questions or concerns, or if you would like to submit a complaint regarding the collection and use of your personal data, please feel free to contact the Data Controller:

leaves@ela.europa.eu

- The Data Protection Officer (DPO) of ELA

You may contact the Data Protection Officer (data-protection@ela.europa.eu) with regard to issues related to the processing of your personal data under Regulation (EU) 2018/1725.

- The European Data Protection Supervisor (EDPS)

You have the right to have recourse (i.e. you can lodge a complaint) to the European Data Protection Supervisor (edps@edps.europa.eu) if you consider that your rights under Regulation (EU) 2018/1725 have been infringed as a result of the processing of your personal data by the Data Controller.

10. Where to find more detailed information?

ELA Data Protection Officer (DPO) publishes the register of all processing operations on personal data by ELA, which have been documented and notified to him. You may access the register via the following link: <https://www.ela.europa.eu/en/privacy-policy>

This specific processing operation has been included in the DPO's public register with the following Record reference: DPR-ELA-2022-0028 ELA data processing related to leave/absence/compensation management.