



**European Labour Authority**

DATA PROTECTION OFFICER

**RECORD OF PROCESSING OPERATIONS ON PERSONAL DATA**

DPR-ELA-2022-0045: ELA restrictions on data subjects' rights concerning personal data

**1 PART 1: PUBLIC - RECORD (ARTICLE 31<sup>1</sup>)****1.1 GENERAL INFORMATION**

<b>Record reference</b>	DPR-ELA-2022-0043
<b>Title of the processing operation</b>	ELA restrictions on data subjects' rights concerning personal data
<b>Controller entity</b>	European Labour Authority
<b>Joint controllers</b>	<input checked="" type="checkbox"/> N/A <input type="checkbox"/> YES, fill in details below
<b>Processor(s)</b>	<input type="checkbox"/> N/A <input checked="" type="checkbox"/> YES, fill in details below
<b>Internal organisation(s)/entity(ies) Names and contact details</b>	<input checked="" type="checkbox"/> N/A <input type="checkbox"/> YES
<b>External organisation(s)/entity(ies) Names and contact details</b>	<input type="checkbox"/> N/A <input checked="" type="checkbox"/> YES Microsoft Ireland South County Business Park, One Microsoft Place, Carmanhall and Leopardstown, Dublin, D18 P521, Ireland.
<b>Data Protection Officer Name and contact details</b>	Laura NUNEZ BAREZ Landererova 12, 811 09 Bratislava I Slovakia Email: data-protection@ela.europa.eu
<b>Language of the record</b>	English

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<sup>1</sup> Pursuant to **article 31** of the new data protection regulation for EU institutions and bodies (**Regulation (EU) 2018/1725**) each controller and processor have to maintain a **record of processing activities** under its responsibility that contains at least the information listed under that article.

## 1.2 PURPOSE AND DESCRIPTION OF THE PROCESSING

### 1.2.1 Purpose

To fulfil its tasks, the European Labour Authority (ELA) collects and processes information and several categories of personal data, including identification data of natural persons, contact information, professional roles and tasks, information on private and professional conduct and performance, and financial data for different purposes.

While processing personal data, the ELA is bound by Regulation (EU) 2018/1725 and therefore, is obliged to provide information to data subjects on those processing activities and to respect their rights as data subjects. However, under exceptional circumstances and, in accordance with Article 25 of the Regulation (EU) 2018/1725, ELA has approved the appropriate internal rules under which ELA is entitled in some specific cases to restrict those rights.

The ELA might be required to restrict data subjects' rights related to their personal data in the following cases:

- a) the performance of administrative inquiries and disciplinary proceedings;
- b) activities related to cases of potential irregularities reported to OLAF;
- c) whistleblowing procedures;
- d) formal and informal procedures for cases of harassment;
- e) processing internal and external complaints;
- f) internal and external audits;
- g) concerted and joint inspections, when providing or receiving assistance and cooperation to and from EU Member States' public authorities, either at their request or on ELA's own initiative;
- h) the investigations carried out by the Data Protection Officer (ELA DPO) in line with Article 45(2) of Regulation 2018/1725;
- i) (IT) security investigations handled internally or with external involvement (e.g. CERT-EU);
- j) processing personal data in documents obtained by the parties or interveners in the context of proceedings before the Court of Justice of the European Union;

Where the ELA restricts, wholly or partly, the rights of data subjects related to their personal data, referred to in Articles 14 to 24 of Regulation (EU) 2018/1725, it shall document, in an **internal assessment note**, the reasons for the restriction, including an assessment of the necessity, proportionality of the restriction and its duration. This assessment shall take place on a case-by-case basis.

In addition, the ELA shall inform the data subject concerned, in its reply to the request, of the restriction applied and of the principal reasons thereof, and of the possibility of lodging a complaint with the European Data Protection Supervisor (EDPS) or of seeking a judicial remedy in the Court of Justice of the European Union.

### 1.2.2 Processing for further purposes

- Archiving in the public interest
- Scientific or historical research purposes
- Statistical purposes
- Safeguards in place to ensure data minimization
  - Pseudonymisation
  - Any other, specify

### 1.2.3 Modes of processing

1.  Automated processing (Article 24)
  - a.  Computer/machine
    - i.  automated individual decision-making , including profiling
    - ii.  Online form/feedback
    - iii.  Any other, specify
2.  Manual processing

- a.  Word documents
  - b.  Excel sheet
  - c.  Any other, specify
- Necessity and proportionality test.

**Description**

Necessity and proportionality tests will be performed in accordance with relevant guidance of the EDPS.

**1.2.4 Storage medium**

- 1.  Paper
- 2.  Electronic
  - a.  Digital (MS documents (Word, Excel, Powerpoint), Adobe pdf, Audiovisual/multimedia assets, Image files (.JPEG, PNG, etc.))
  - b.  Databases
  - c.  Servers
  - d.  Cloud
- 3.  External contractor premises
- 4.  Others, specify

**Description:**

ELA staff are provided with the MS 365 Office products to be able to access work documents from different devices and locations, and to carry out ELA's tasks.

**1.2.5 Comments on the processing of the data****1.3 DATA SUBJECTS AND DATA CATEGORIES****1.3.1 Data subjects' categories**

1. Internal to organisation	ELA Staff
2. External to organisation	External citizens

**1.3.2 Data categories/fields**

Indicate the categories of data that will be processed

General for all processes:

Name, surname, position, Unit/Sector or organization, country and address.

Names and possibly contact details of ELA staff, staff of any other Agency/European Commission/European Ombudsman involved.

Possibly also names of other individuals referred to in that correspondence/complaint/ specific case.

Any other personal data spontaneously provided by the complainant in his/her complaint/request, including possibly the personal data of individuals other than the complainant.

Specific for each process:**Administrative inquiries and disciplinary proceedings:**

Identification and contact data, financial, HR, social, behavioural data and other types of data specific to the processing operation, such as: legal qualification of the conduct or misconduct according to the Staff Regulations or other obligations; individual responsibility of the person concerned, including financial liability; disciplinary and criminal sanctions imposed to the person concerned. More specifically, identification data include: date of birth, nationality. Contact data include: e-mail address, institution

and department, function. Financial data may include bank account references, IBAN and BIC codes. Professional data include professional experience, including details on current and past employment. Detailed information provided in Record "DPR-ELA-2022-0036: Administrative inquires and disciplinary procedure".

**Whistleblowing procedures:**

*In principle, whistleblowing should not be anonymous. Whistleblowers should be invited to identify themselves not only to avoid abuse of the procedure but also to allow their effective protection against any retaliation.*

Personal data that might be collected: evaluation of personal aspects of the data subject (e.g.: conduct, activities, working relations and/or social behaviour) and documents produced at work (emails, notes, correspondence, etc.), report: date and signature.

This process is covered by the Record 'DPR-ELA-2022-0021 Whistleblowing procedure'.

**Formal and informal procedures for cases of harassment:**

Name, surname of the alleged victim, and alleged harasser, information on the witness(es) and information/evidence on the alleged harassment.

This process is covered by the Record 'DPR-ELA-2022-0031: Anti-harassment procedure' published on ELA Register of processing of personal data.

**Processing internal and external complaints:**

ID number, copy of ID or passport, social security number, nationality and complaint/request concerning a specific situation that can possibly include: social security entitlements such as insurance periods, employers, medical data or family status. In some cases, ELA may receive special categories of data: health data or trade union membership.

This process is covered by the Record 'DPR-ELA-2022-0006 External complaints in the field of European labour mobility'

**Internal and external audits:**

Data for access to finance and contractual obligations. Such data can be: bank account reference (IBAN and BIC codes), VAT number, passport or ID number; timesheets, salary slips, accounts, details of the costs, missions, reports, information coming from local IT system used to declare costs as eligible, supporting documents linked to travel costs, minutes from mission and other similar data depending of the nature of the grant/contract, etc;

Information for the evaluation of selection criteria or eligibility criteria: expertise, technical skills and languages, educational background, professional experience, including details on current and past employment.

This process is covered by the Record 'DPR-ELA-2022-0025 ELA process of personal data related to internal and external Audits'.

**Concerted and joint inspections:**

Hand written notes of visual observations during the inspection, pictures/video and report, personal data related to the data subjects under inspection (e.g. employer, employees, other persons who are not subject to an inspection but are referred to in relevant documents): Name, education and training, identity documents (such as passport, identity card, social security number), employment details, timesheets, payslips, written contracts, emails regarding the personnel, all incoming/outgoing invoices, bank transactions, work carried out in the performance of their employment and/or the role(s) they perform in the organisation.

Interviews/hearings /questionnaires with employees and other concerned persons may take place as part of an investigation.

This process is covered by the Record 'DPR-ELA-2022-0029 ELA concerted and joint inspections'.

**Investigations carried out by the Data Protection Officer**

In addition to the general information, the following data may be requested if needed:

A copy of an identity document of applicants (where relevant), case involvement data.

This process is covered by the Record 'DPR-ELA-2022-004: Monitoring, investigative, auditing and consultative activities of ELA Data Protection Officer' published on ELA Register of processing of personal data.

**(IT) security investigations handled internally or with external involvement (e.g. CERT-EU):**

The nature of the fact under investigation, the place and time of its occurrence, the evidence discovered and the link between these elements and the persons.

This process is covered by the Record “DPR-ELA-2022-0033: Security investigations”.

**1.3.2.1 Special categories of personal data**

**Indicate if the processing operation concerns any ‘special categories of data’ which fall(s) under Article 10(1), which shall be prohibited unless any of the reasons under article 10(2) applies:**

**Yes, the processing concerns the following special category(ies):**

Data revealing

- racial or ethnic origin,
- political opinions,
- religious or philosophical beliefs,
- trade union membership,

Or/and,

- Genetic data, biometric data for the purpose of uniquely identifying a natural person,
- Data concerning health,
- Data concerning a natural person’s sex life or sexual orientation.

**N/A**

**Description:**

Special categories of data may need to be processed but are not the main objective of this process of personal data. Before a restriction of any right of data subjects is in place, the ELA responsible team will perform a **necessity and proportionality test** where a balance between the data subject’s rights against the fundamental rights and freedoms of other data subjects/public interest will be performed.

**If applicable, indicate the reasons under article 10(2) allowing the processing of the special categories of data:**

- (a)  The data subject has given explicit consent to the processing of those personal data for one or more specified purposes, [...].
- (b)  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[...].
- (c)  Processing is necessary to protect the vital interests of the data subject or of another person where the data subject is physically or legally incapable of giving consent.
- (d)  Processing is carried out in the course of its legitimate activities with appropriate safeguards by a non-profit-seeking body which constitutes an entity integrated in a Union institution or body and with a political, philosophical, religious or trade-union aim [...].
- (e)  Processing relates to personal data which are manifestly made public by the data subject.
- (f)  Processing is necessary for the establishment, exercise or defense of legal claims or whenever the Court of Justice of the European Union is acting in its judicial capacity.
- (g)  Processing is necessary for reasons of substantial public interest, [...]
- (h)  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 [...].
- (i)  Processing is necessary for reasons of public interest in the area of public health, such as protecting against serious cross-border threats to health or ensuring high standards of quality and safety of health care and of medicinal products or medical devices [...].

- (j)  Processing is necessary for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes [...].

### 1.3.2.2 Data related to 'criminal convictions and offences'

The data being processed contain sensitive data which fall(s) under Article 11 'criminal convictions and offences'	N/A <input checked="" type="checkbox"/> Yes <input type="checkbox"/>
Description:	

## 1.4 RETENTION PERIOD

Indicate the administrative time limit(s) for keeping the personal data per data category, and if known, specify the start/end date, or describe the specific start/end moment of each time limit:

Data category	Retention period
The performance of administrative inquiries and disciplinary proceedings	Files containing documents in view of which it has been decided not to launch an administrative investigation: <b>maximum 2 years</b> .  Files containing the investigation report and the documents in view of which it has been decided not to open a disciplinary procedure: <b>maximum 5 years</b> .  Files containing the investigation report and the documents in view of which it has been decided to initiate an administrative procedure. Files containing the instruments of the disciplinary procedure, correspondence with the person(s) concerned and follow-up: <b>maximum 20 years</b> .
Activities related to cases of potential irregularities reported to OLAF/European Ombudsman	Files covering the relations with the European Ombudsman, including the coordination and draft responses to the Ombudsman on ELA's opinion on complaints concerning alleged maladministration: <b>Maximum 5 years</b> .
Whistleblowing procedures	Cases not to be referred to OLAF or out of the scope of whistleblowing procedure: <b>2 months</b> after the finalisation of the preliminary assessment or after being referred to the right channel.  Cases referred to OLAF: <b>3 years</b> after receiving the final outcome of OLAF's procedure (investigation not launched, investigation closed with no further action, or final report).
Formal and informal procedures for cases of harassment	Maximum <b>3 years</b> from the moment the alleged harasser was informed
Processing internal and external complaints	Files concerning relevant complaints and requests to the Administration: <b>Maximum of 5 years</b> . Files documenting the handling of complaints received by ELA from citizens who consider that ELA has not treated them in accordance with the principles of legality, non-discrimination, proportionality of measures to their objective or consistency in administrative behaviour: <b>Maximum of 3 years</b> .

Personal data related to internal and external audits	Files on the audit programmes: Maximum of <b>6 years</b> Internal audit files containing the internal auditors' comments recorded during their auditing work, the internal auditors' opinion on the internal control system audited and recommendations: Maximum of 10 years Files on the opinions given by the ELA departments: Maximum of <b>6 years</b> Files concerning ECA reports (drafts and follow-up) examining whether all revenue has been received and all expenditure has been incurred in a lawful and regular manner and establishing whether ELA's financial management is sound: Maximum of <b>10 years</b> .
Concerted and joint inspections	Maximum <b>5 years</b>
the investigations carried out by the Data Protection Officer	Files documenting the handling of complaints received by ELA from persons who consider that ELA has not acted in accordance with the data protection rules. Maximum of <b>5 years</b> .
(IT) security investigations handled internally or with external involvement (e.g. CERT-EU)	Maximum <b>5 years</b> .
Proceedings before the Court of Justice of the European Union	Files concerning cases before the European and national courts: Maximum of <b>5 years</b> .

**Description**

Each process has a specific retention period foreseen in the relevant legal basis and the ELA filing plan and specific retention list, as specified below.

Restrictions shall be limited to what is strictly necessary to achieve their objective, and limited in time.

**1.5 RECIPIENTS**

<b>Origin of the recipients of the data</b>	
1. <input checked="" type="checkbox"/> Within the EU organization	ELA Staff on a need to know basis ELA DPO ELA Confidential Counsellors
2. <input checked="" type="checkbox"/> Outside the EU organization	European Anti-Fraud Office (OLAF) European Court of Justice European Court of Auditors Investigation and Disciplinary Office of the Commission (IDOC ) Social service or the medical service of the European Commission. Stakeholders in the Concerted and Joint Inspections. CERT-EU European Data Protection Supervisor (EDPS)

**Categories of the data recipients**



1.  A natural or legal person
2.  Public authority
3.  Agency
4.  Any other third party, specify

### **Description**

#### General for all processes:

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.

#### Specific for each process:

##### **Administrative inquiries and disciplinary proceedings:**

IDOC, OLAF and any other relevant actor which ELA is obligated to share the data with.

Detailed information provided in Record “DPR-ELA-2022-0036: Administrative inquiries and disciplinary procedure”.

##### **Whistleblowing procedures:**

IDOC, OLAF and any other relevant actor which ELA is obligated to share the data with.

This process is covered by the Record ‘DPR-ELA-2022-0021 Whistleblowing procedure’.

##### **Formal and informal procedures for cases of harassment:**

IDOC, OLAF and any other relevant actor which ELA is obligated to share the data with.

This process is covered by the Record ‘DPR-ELA-2022-0031: Anti-harassment procedure’ published on ELA Register of processing of personal data.

##### **Processing internal and external complaints:**

IDOC, OLAF and in some specific cases the relevant national/European courts.

This process is covered by the Record ‘DPR-ELA-2022-0006 External complaints in the field of European labour mobility’

##### **Internal and external audits:**

European Court of Auditors.

This process is covered by the Record ‘DPR-ELA-2022-0025 ELA process of personal data related to internal and external Audits’.

##### **Concerted and joint inspections:**

Stakeholders in the Concerted and Joint Inspections or MS affected/involved in the CJI.

This process is covered by the Record ‘DPR-ELA-2022-0029 ELA concerted and joint inspections’.

##### **Investigations carried out by the Data Protection Officer**

In some particular cases, the European Data Protection Supervisor (EDPS).

This process is covered by the Record ‘DPR-ELA-2022-004: Monitoring, investigative, auditing and consultative activities of ELA Data Protection Officer’ published on ELA Register of processing of personal data.

**(IT) security investigations handled internally or with external involvement (e.g. CERT-EU):**  
CERT-EU.

This process is covered by the Record “DPR-ELA-2022-0033: Security investigations”.

#### 1.6 INTERNATIONAL DATA TRANSFERS

<b>Transfer to third countries or international organisations of personal data</b>	
<b>1. Transfer outside of the EU or EEA</b>	
<input checked="" type="checkbox"/> N/A, transfers do not occur and are not planned to occur <input type="checkbox"/> YES,	
Country(ies) to which the data is transferred	
<b>2. Transfer to international organisation(s)</b>	
<input checked="" type="checkbox"/> N/A, transfers do not occur and are not planned to occur <input type="checkbox"/> Yes, specify further details about the transfer below	
Names of the international organisations to which the data is transferred	
<b>3. Legal base for the data transfer</b>	
<input type="checkbox"/> Transfer on the basis of the European Commission's <b>adequacy decision</b> ( <i>Article 47</i> ) <input type="checkbox"/> Transfer subject to <b>appropriate safeguards</b> ( <i>Article 48.2 and .3</i> ), specify:	
2. (a) <input type="checkbox"/> A legally binding and enforceable instrument between public authorities or bodies. Standard data protection clauses, adopted by (b) <input type="checkbox"/> the Commission, or (c) <input type="checkbox"/> the European Data Protection Supervisor and approved by the Commission, pursuant to the examination procedure referred to in Article 96(2) . (d) <input type="checkbox"/> Binding corporate rules, <input type="checkbox"/> Codes of conduct , <input type="checkbox"/> Certification mechanism pursuant to points (b), (e) and (f) of Article 46(2) of Regulation (EU) 2016/679, where the processor is not a Union institution or body.	
3. Subject to the authorisation from the European Data Protection Supervisor:	
<input type="checkbox"/> Contractual clauses between the controller or processor and the controller, processor or the recipient of the personal data in the third country or international organisation. <input type="checkbox"/> Administrative arrangements between public authorities or bodies which include enforceable and effective data subject rights.	
<input type="checkbox"/> Transfer based on an <b>international agreement</b> ( <i>Article 49</i> ), specify	
<b>4. Derogations for specific situations</b> (Article 50.1 (a) –(g))	
<input checked="" type="checkbox"/> N /A <input type="checkbox"/> Yes, derogation(s) for specific situations in accordance with article 50.1 (a) –(g) apply (ies).	

**1.7 INFORMATION TO DATA SUBJECTS ON THEIR RIGHTS**

<b>Rights of the data subjects</b>
<i>Article 17 – Right of access by the data subject</i>
<i>Article 18 – Right to rectification</i>
<i>Article 19 – Right to erasure (right to be forgotten)</i>
<i>Article 20 – Right to restriction of processing</i>
<i>Article 21 – Notification obligation regarding rectification or erasure of personal data or restriction of processing</i>
<i>Article 22 – Right to data portability</i>
<i>Article 23 – Right to object</i>
<i>Article 24 – Rights related to Automated individual decision-making, including profiling</i>

**1.7.1 Privacy statement**

The data subjects are informed about their rights and how to exercise them in the form of the a privacy statement attached to this record.

**Publication of the privacy statement**

Published on website

Web location:

- ELA internal website  (URL: ELA Sharepoint on Personal Data Protection )
- External website  (URL: <https://www.ela.europa.eu/en/privacy-policy> )

Other form of publication, specify

Guidance for Data subjects which explains how and where to consult the privacy statement is available and will be provided at the beginning of the processing operation.

**Description:**

The possibility to restrict, under strict conditions, the application of Articles 14 to 22, 35 and 36 of the Regulation, as well as its Article 4 in so far as its provisions correspond to the rights and obligations provided for in Articles 14 to 20. Unless restrictions are provided for in a legal act adopted on the basis of the Treaties, it is necessary to adopt internal rules under which the ELA is entitled to restrict those rights.

**1.8 SECURITY MEASURES**

Short summary of overall Technical and Organizational Measures implemented to ensure Information Security:

**Description:**

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

The European Labour Authority's contractors are bound by a specific contractual clause for any processing operations of personal data on behalf of the European Labour Authority, and by the confidentiality obligations deriving from the General Data Protection Regulation.

In order to protect personal data, the European Labour Authority has put in place a number of technical and organisational measures. 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