



European Labour Authority

DATA PROTECTION OFFICER

RECORD OF PROCESSING OPERATIONS ON PERSONAL DATA

DPR-ELA-2022-0014: ELA mediation activities

1 PART 1: PUBLIC - RECORD (ARTICLE 31¹)**1.1 GENERAL INFORMATION**

| | |
|---|--|
| Record reference | DPR-ELA-2022-0014 |
| Title of the processing operation | ELA mediation activities |
| Controller entity | European Labour Authority, Cooperation Support Unit, Mediation team (ELA Mediation Team) |
| Joint controllers | <input checked="" type="checkbox"/> N/A <input type="checkbox"/> YES, fill in details below |
| Processor(s) | <input type="checkbox"/> N/A <input checked="" type="checkbox"/> YES, fill in details below |
| External organisation(s)/entity(ies) Names and contact details | <input checked="" type="checkbox"/> YES Microsoft Ireland South County Business Park, One Microsoft Place, Carmanhall and Leopardstown, Dublin, D18 P521, Ireland. |
| Data Protection Officer Name and contact details | Laura NUNEZ BAREZ Landererova 12, 811 09 Bratislava I Slovakia Email: data-protection@ela.europa.eu |
| Corporate Record | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| Language of the record | English |

¹ 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

Description:

Following Regulation (EU) 2019/1149 of the European Parliament and of the Council of 20 June 2019 establishing a European Labour Authority, the European Labour Authority (ELA) has a mediation role. Member States should be able to refer disputed individual cases to ELA after failing to solve them by means of direct contact and dialogue.

Mediation will only concern disputes between Member States submitted to ELA on voluntary basis.

This process aims to cover all the processing operations performed by ELA in this mediator role:

- Management of ELA Mediators (e.g. nomination, distribution of cases, specific training)
- Management of the ELA Working Group on mediation
- Mediation procedures before ELA
 - Initiative from Member States
 - Initiative from ELA
 - Initiative from SOLVIT (SOLVIT is a free charge and mainly online service provided by the national administration in each EU country and in Iceland, Liechtenstein and Norway.)

Purposes:

- The objective of ELA is to contribute towards ensuring fair labour mobility across the Union and assist Member States and the European Commission in the coordination of social security systems. To that end, ELA should mediate and facilitate a solution in the case of disputes between Member States regarding individual cases of application of Union law in areas covered by Regulation (EU) 2019/1149 establishing a European Labour Authority.
- To put in place an effective mediation procedure that provides for a structured process to reconcile the divergent points of view between the Member States.

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 minimisation

- Pseudonymisation
- Any other, specify

Mediation will only concern disputes between Member States submitted to ELA on a voluntary basis.

When presenting a case for mediation, Member States shall ensure that all personal data related to that case is anonymised in such a manner that the data subject is not or no longer identifiable. The Authority will not process the personal data of individuals concerned by the case at any point in the course of the mediation.

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
3. Any other mode, specify

SOLVIT is a process covered by the European Commission, DG Internal Market, Industry, Entrepreneurship and SMEs (DG GROW) by record “DPR-EC-00426”, available [here](#). Reimbursement of experts will be done by ELA Finance, Budget and Procurement Team. This process of personal data will be covered by Record “DPR-ELA- 2022-0003 Managing award procedures for procurement and the execution of contracts”, available [here](#).

Description

Specific Rules of procedure approved by ELA Management Board in November 2021.

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

Description:

ELA staff are provided with the MS O365 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 | <input checked="" type="checkbox"/> Yes ELA Finance, Budget and Procurement Team ELA Mediation Team officially appointed by ELA |
| 2. External to organisation | <input checked="" type="checkbox"/> Yes Representatives from Member States Representatives from the European Commission Social partners – rules of procedure External experts Employees of national administrations, officially appointed in the Member States submitting a case for mediation |

1.3.2 Data categories/fields

Management of ELA Mediators (e.g. nomination, distribution of cases, specific training)

Name, surname, nationality, gender, contact details (e-mail, address, telephone number), areas of expertise, current position/job, organization, main responsibilities, professional background, language skills, nomination role and appointment within the ELA Management Board, training related information, declaration of absence of conflict of interest for the particular case nominated, picture.

Management of the ELA Working Group on mediation

Specific events, tasks assigned, opinion and reports.

All the relevant documents, including the agenda and a summary of the deliberations of the Working Group will be published in ELA’s website.

Mediation procedures before ELA

First phase:

Contact points from the different Member States submitting a case for mediation – the NLOs. Representatives from the Member States parties of the dispute.

Letter of request, detailed statement/summary of the individual case object of discrepancy by Member States, applicable Union law.

When presenting a case for mediation, Member States shall ensure that all personal data related to that case is anonymised in such a manner that the data subject is not or no longer identifiable. The Authority will not process the personal data of individuals concerned by the case at any point in the course of the mediation.

Non-binding opinion adopted by ELA’s mediator.

Second phase:

Contact points from the different Member States parties to the dispute – the NLOs. Representatives from the Member States parties of the dispute. Composition of the Mediation Board (Name, Surname, Nationality, Role) and Non- binding opinion. Invitation to mediate, Acceptance/Refusal letter of mediation, detailed statement.

For cases submitted through SOLVIT, reference to the SOLVIT case can be gathered (pseudonymized data). The problem descriptions, personal data of the complainants and the documents related to the case are stored in an online database managed and maintained by the European Commission and ELA Mediation Team will not have access to them.

In case of reimbursement of experts, the ELA Finance, Budget and Procurement Team will have access to Name, Surname, Financial Identification and Legal Entity (Legal Entity Form (LEF) and Bank Account File (BAF) and all information on transport and subsistence expenses. This process of personal data will be covered by Record “DPR-ELA- 2022-0003 Managing award procedures for procurement and the execution of contracts”, available here.

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.

Description:

Trade union membership could be collected concerning the processes of management of ELA mediators and/or ELA Working Group on mediation.

When presenting a case for mediation, Member States shall ensure that all personal data related to that case is anonymised in such a manner that the data subject is not or no longer identifiable. The Authority shall not process the personal data of individuals concerned by the case at any point in the course of the mediation, but, if, accidentally the European Labour Authority received any personal data related to a particular case, it will be immediately destroyed. The European Labour Authority will inform and remind the Member State concerned of the unsolicited reception of personal data.

Data concerning health could be exchanged if relevant for a specific dispute.

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 type="checkbox"/> Yes <input checked="" type="checkbox"/> |
| Description: In some specific cases of abuse of EU labour mobility rules, this type of data may be processed. | |

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 | Optional | |
|---|--|--|--|
| | | Start date/moment | End date/moment |
| Data related to the management of ELA mediators/experts of the MB | 5 years after the persons is no longer ELA mediator/MB expert | From the pre-selection phase | 5 years later the person has no longer this role |
| Data related to ELA Working Group on mediation | 5 years after the person is no longer member of the group or the group is close down | From the nomination and establishment of the Working Group | 5 years after the person is no longer member of the group or the group is close down |

| | | | |
|--------------------------------------|---------|---|---|
| Data related to mediation procedures | 5 years | From the moment a case is submitted for ELA mediation | 5 years later the case is solved. Personal data related to the members of the Mediation Board could be kept for historical/statistical purposes |
|--------------------------------------|---------|---|---|

Description

According to ELA Filing Plan and specific retention list (*Ares reference: Ares(2021)3736257*):

- Files on the creation, work and follow-up of the expert/working groups set up by the management Board on a permanent or temporary basis to advise should be kept for the period during which the relevant individual is a member of the group and for five years after the date on which the individual is no longer member or for five years after the date on which the group was closed down.
- Files related to the cooperation and exchange of information between Member States as well as mediation activities, carried out in accordance with Articles 7 and 13 of Regulation 2019/1149 should be kept for 5 years (ELA.4 – Operational activities, ELA.4.3 Cooperation and mediation). Personal data related to the members of the Mediation Board could be kept for historical/statistical purposes.

1.5 RECIPIENTS

| Origin of the recipients of the data | |
|--|--|
| 1. <input checked="" type="checkbox"/> Within the EU organization | Head of the Cooperation Support Unit and staff of the Unit on a “need to know basis”. ELA Executive Director ELA Management Board ELA Mediation Team ELA Finance, Budget and Procurement Team |
| 2. <input checked="" type="checkbox"/> Outside the EU organization | Administrative Commission for the coordination of social security systems Representatives of the Member States Representatives of the Commission Social partners organizations at EU and national level External experts General public |

| Categories of the data recipients |
|--|
| 1. <input checked="" type="checkbox"/> A natural or legal person |
| 2. <input checked="" type="checkbox"/> Public authority |
| 3. <input type="checkbox"/> Agency |
| 4. <input type="checkbox"/> Any other third party, specify |
| Specify who has access to which parts of the data: |

Description

Data related to The management of ELA mediators/experts MB will be accessible to Head of the Cooperation Support Unit and staff of the Unit on a “need to know basis”, ELA Executive Director, ELA Management Board and Representatives of the Member States submitting a dispute to ELA.

Data related to ELA Working group on Mediation will be accessible to the members, Head of the Cooperation Support Unit and staff of the Unit on a “need to know basis”. All the relevant documents, including the agenda and a summary of the deliberations of the Working Group will be published in ELA’s website.

Data related to mediation procedures:

During the first phase only the chosen mediator from Member States among ELA Mediation Team will have access to the case.

If a second phase is needed, members of the Mediation board will have access to all data.

The ELA Head of the Cooperation Support Unit and the ELA staff members working on mediation, the representatives of the Member States, the NLOs of the concerned Member States, the external experts allowed to participate in the procedure will have access to the case in both phases.

Following Cooperation Agreement with the Administrative Commission (AC) for the coordination of social security systems, if the dispute relates, fully or in part, to matters of social security, the Authority shall give due consideration to any requests by the Administrative Commission or the Member States to refer the issue concerning social security to the Administrative Commission. In these cases, detailed statements received by the Member States will be shared with the AC.

In case of reimbursement of experts, the ELA Finance, Budget and Procurement Team will have access to Name, Surname, Financial Identification and Legal Entity (Legal Entity Form (LEF) and Bank Account File (BAF) and all information on transport and subsistence expenses

1.6 INTERNATIONAL DATA TRANSFERS

| Transfer to third countries or international organisations of personal data | |
|--|-------------|
| 1. Transfer outside of the EU or EEA | |
| <input type="checkbox"/> N/A, transfers do not occur and are not planned to occur <input checked="" type="checkbox"/> YES, | |
| Country(ies) to which the data is transferred | Switzerland |
| 2. Transfer to international organisation(s) | |
| <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 | |
| 3. Legal base for the data transfer | |
| <input checked="" type="checkbox"/> Transfer on the basis of the European Commission's adequacy decision (<i>Article 47</i>) <input type="checkbox"/> Transfer subject to appropriate safeguards (<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 international agreement (Article 49), specify |
| 4. Derogations for specific situations (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). |

Description

On the basis of Article 45 of Regulation (EU) 2016/679, the European Commission, has determined that Switzerland has an adequate level of protection¹, therefore no further safeguard is needed.

1.7 INFORMATION TO DATA SUBJECTS ON THEIR RIGHTS

| Rights of the data subjects |
|--|
| <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: [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.
Guidance on data subjects rights on ELA main website.

Description:

¹2000/518/EC: Commission Decision of 26 July 2000 pursuant to Directive 95/46/EC of the European Parliament and of the Council on the adequate protection of personal data provided in Switzerland

1.8 SECURITY MEASURES

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

Description:

All personal data in electronic format (e-mails, documents, databases, uploaded batches of data, etc.) are stored on the servers of the European Labour Authority or 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 the EU Member States ('GDPR' Regulation (EU) 2016/679).

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.