



European Labour Authority

DATA PROTECTION OFFICER

RECORD OF PROCESSING OPERATIONS ON PERSONAL DATA

DPR-ELA-2022-0036 ELA process on administrative inquires and disciplinary procedures

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

Record reference	DPR-ELA-2022-0036
Title of the processing operation	DPR-ELA-2022-0036 ELA process on administrative inquires and disciplinary procedures
Controller entity	European Labour Authority
Joint controllers	<input type="checkbox"/> N/A <input checked="" type="checkbox"/> YES, fill in details below
Names and contact details of respective joint controllers	The ELA signed a Service Level Agreement (SLA) with the service of the European Commission HR.IDOC (Investigation and Disciplinary Office of the Commission). HR.IDOC will carry out the “operational” part of the procedures.
Description of the main responsibilities of each of the controllers, and the essence of the Joint controllership arrangements.	
Joint controllership arrangement (Article 28(1))	<input type="checkbox"/> Link: <input type="checkbox"/> Attachment
Processor(s)	<input type="checkbox"/> N/A <input checked="" type="checkbox"/> YES, fill in details below
Internal organisation(s)/entity(ies) Names and contact details	<input checked="" type="checkbox"/> N/A <input type="checkbox"/> YES
External organisation(s)/entity(ies) Names and contact details	<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
Data Protection Officer Name and contact details	Laura NUNEZ BAREZ European Labour Authority Landererova 12, 811 09 Bratislava I Slovakia Email: data-protection@ela.europa.eu
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

The European Labour Authority (ELA) aims to ensure that all staff members or former staff members comply with their statutory obligations by conducting **administrative inquiries, pre-disciplinary proceedings, disciplinary and suspension proceedings**, in an impartial, transparent, and timely manner in case of potential breaches of the Staff Regulations (SR).

The processing of data consists in collecting information and gathering evidence, accurate and validly obtained, into a file which will be submitted to the Appointing Authority (AA), the Executive Director of ELA. This file will allow the AA to determine whether there has been a failure by an official, servant or other person working for the Authority, to comply with his/her obligations under the Staff Regulations and the Conditions of Employment of Other Servants (CEOS).

The sole purpose of this processing of personal data is to establish the facts and determine the individual responsibility of the person concerned in respect of the facts and circumstances of the case. It allows the AA to decide on the appropriate follow-up to the case.

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
- Aggregated data for statistical purposes.

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

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:

Case files and documents, both in paper form and in encrypted electronic format.

1.2.5 Comments on the processing of the data

This can occur following a request based on Article 24 SR and/or in case of alleged harassment,

amongst others.

The phases are the following:

- Preliminary assessment
- Assessment note
- If decided by the AA, opening of an administrative inquiry
- Administrative inquiry
- Pre-disciplinary proceeding
- Disciplinary/Suspension proceeding

The inquiry is impartial and takes account of all mitigating and aggravating circumstances.

In specific circumstances the rights of data subjects could be limited/restricted. For instance, the during the administrative inquiry, the person concerned shall not have access to the file. In this case, the Decision No 20/2022 of 24 November 2022 of the Management Board on internal rules concerning restrictions of certain data subject rights in relation to the processing of personal data in the framework of activities carried out by the European Labour Authority will apply.

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.

1.3 DATA SUBJECTS AND DATA CATEGORIES

1.3.1 Data subjects' categories

1. Internal to organisation	Any staff member of the ELA as person concerned, witness or case handler <i>ELA servants and former servants within the meaning of CEOS, and by analogy to national experts, , and trainees.</i>
2. External to organisation	Persons employed under private law contracts working on ELA premises External members of the Inquiry team, Disciplinary Board / Common Disciplinary Board IDOC staff in a need to know basis (case handlers) OLAF staff in a need to know basis (case handlers)

1.3.2 Data categories/fields

Personal data of the person concerned:

Depending on the circumstances of the particular case, the following information could be gathered:

Identification and contact data:

Name, surname, date of birth, nationality, e-mail address, institution and department, function.

Financial data:

It may include bank account references, IBAN and BIC codes.

HR data:

Professional data include professional experience, including details on current and past employment.

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.

Personal data of the witness(es)

Name, surname, e-mail address, institution and department, function and written/oral statements.

Personal data of the members of the Inquiry team, Disciplinary Board / Common Disciplinary Board

Name, surname, e-mail address, institution and department, function and report of the Inquiry team/reasoned opinion of the Disciplinary Board.

Personal data related to the inquiry/administrative inquiry/pre-disciplinary and/or disciplinary proceedings

Documents and other data relevant to the case in any format, hearings (audio-recordings, videoconference, phone or any equivalent media).

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:

In specific cases, the AA may have to process the data indicated above, for the purposes of conducting administrative inquiries and disciplinary proceedings or for the purpose of establishing the facts.

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 exceptional cases, the AA may have to treat such data.	

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
Personal data contained in the preliminary assessment and have not triggered an administrative investigations	2 years	Date of the appointing authority's decision
Personal data contained in an administrative investigation without disciplinary consequences	5 years	Date of the appointing authority's decision
Personal data related to investigations with disciplinary consequences	20 years	Date of the appointing authority's decision
Decisions/Penalties	3 years 6 years	Date of the appointing authority's decision

Description

According to ELA implementing rules, the administrative inquiry shall be carried out within an indicative timeframe of 12 months from the mandate.

According to ELA filing plan and specific retention list the following retention periods apply:

ELA.6.5.5 Professional conduct and discipline

ELA.6.5.5.1 Files that have not given rise to administrative investigations: Files containing documents in view of which it has been decided not to launch an administrative investigation: **2 years**.

ELA.6.5.5.2 Investigations without disciplinary consequences: Files containing the investigation report and the documents in view of which it has been decided not to open a disciplinary procedure: **5 years**.

ELA.6.5.5.3 Investigations with disciplinary consequences and disciplinary procedures: 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: **20 years**.

ELA.5.11 Cooperation in investigations of the European Anti-Fraud Office (OLAF)

Files related to the cooperation with OLAF in its investigations: **5 years**.

The penalties of written warning or reprimand adopted at the end of the disciplinary proceedings are placed in the personal file for a period of **3 years**, the other penalties for a period of **6 years**.

After these periods, the person concerned may submit a request to the appointing authority for the deletion of all reference to the penalty from the personal file. The AA shall decide whether to grant

this request. Reasons must be given for any refusal. Decisions of the AA closing the disciplinary proceedings with no follow-up are not placed in the personal file of the person concerned, unless, exceptionally, he or she so requests.

1.5 RECIPIENTS

Origin of the recipients of the data	
1. <input checked="" type="checkbox"/> Within the EU organization	Any staff member of the ELA as person concerned, witness or case handler
2. <input checked="" type="checkbox"/> Outside the EU organization	Persons employed under private law contracts working on ELA premises External members of the Inquiry team, Disciplinary Board IDOC staff in a need to know basis (case handlers) OLAF staff in a need to know basis (case handlers) Lawyers, national courts , ECJ if they prove necessity.

Categories of the data recipients	
1. <input checked="" type="checkbox"/> A natural or legal person	
2. <input checked="" type="checkbox"/> Public authority	
3. <input checked="" type="checkbox"/> Agency	
4. <input type="checkbox"/> Any other third party, specify	

Description

Within the ELA, the Appointing Authority , the Heads of Units/Sectors, as long as it is necessary for the performance of their tasks and **on a strict need-to-know basis**.

Key principles to be followed are: confidentiality, proportionality of decision based on, scale of inappropriate action, fairness, consistency, and protection of the parties involved.

Inquiry team, Disciplinary Board / Disciplinary Board

The inquiry team shall be appointed from among staff members of ELA or from outside ELA, in particular, from the inter-agency pool of investigators. The appointing authority may decide to appoint a person who is not a staff member of an EU Institution or Agency, in particular to avoid a situation of conflict of interest.

Where IDOC receives a mandate from an EU institution or body to conduct pre-disciplinary or disciplinary proceedings, in the framework of the SLA, the complete file is forwarded to that institution or body so that it may decide on the appropriate follow-up of the case. The same applies when during an IDOC procedure, the person concerned transfers from another EU Institution, agency or body, which becomes the competent authority to decide on the follow-up of the case.

1.6 INTERNATIONAL DATA TRANSFERS

Transfer to third countries or international organisations of personal data
1. Transfer outside of the EU or EEA

<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	
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 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: <ul style="list-style-type: none"> 2. (a) <input type="checkbox"/> A legally binding and enforceable instrument between public authorities or bodies. <ul style="list-style-type: none"> Standard data protection clauses, adopted by <ul style="list-style-type: none"> (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: <ul style="list-style-type: none"> <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 (<i>Article 49</i>), specify	
4. Derogations for specific situations (<i>Article 50.1 (a) –(g)</i>) <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

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.

Description:

The privacy notice is published on the website. When the person concerned is informed of the launch of the administrative inquiry, he/she receives a copy of the privacy notice as well as a copy of the IDOC practical guide on procedures in administrative inquiries, pre-disciplinary and disciplinary proceedings and a copy of a notice with specific information on his/her rights, obligations and personal data.

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.