

## RECORD OF PERSONAL DATA PROCESSING ACTIVITY according to Article 31 of Regulation (EU) 2018/1725

### ▶ Preliminary Assessments, Administrative Inquiries & Disciplinary Proceedings

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#### General information

<b>Introduction</b>
EIOPA, as a European Authority, is committed to protect individuals with regard to the processing of their personal data in accordance with Regulation (EU) No 2018/1725 (further referred as the Regulation) <sup>1</sup> .
<b>Contact Details of Data Controller(s)</b>
Fausto Parente, Executive Director Westhafenplatz 1, 60327 Frankfurt am Main, Germany <a href="mailto:fausto.parente@eiopa.europa.eu">fausto.parente@eiopa.europa.eu</a>
<b>Contact Details of the Data Protection Officer</b>
Eleni Karatza Westhafenplatz 1, 60327 Frankfurt am Main, Germany <a href="mailto:dpo@eiopa.europa.eu">dpo@eiopa.europa.eu</a>
<b>Contact Details of Processor</b>

<sup>1</sup> 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, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC.

EIOPA's Team/Unit/Department responsible for the processing:  
 HR and Legal Unit

**Description and Purpose of the Processing**

**Description of Processing**

Personal data are processed in order to carry out preliminary assessments, administrative inquiries and disciplinary proceedings within EIOPA. Preliminary assessments, administrative inquiries and disciplinary proceedings include investigations within the EU institutions, bodies, offices and agencies for the purpose of establishing a possible failure by staff to comply with their obligations under the Staff Regulations (and the Conditions of Employment of Other Servants, respectively).

Preliminary assessments seek to establish whether there is prima facie evidence of possible failure by staff to comply with their obligations. In case such prima facie evidence is established, an administrative inquiry would need to be opened by EIOPA seeking to determine the facts and circumstances of a case. An investigator appointed by the Executive Director would be mandated to conduct the inquiry and report to EIOPA's Executive Director as EIOPA's Appointing Authority. The Executive Director shall take a decision, after establishing whether the relevant rules and procedures applicable to the situation under investigation have been respected and determining any individual responsibility, and having regard to any aggravating and extenuating circumstances. Disciplinary proceedings may be opened following administrative inquiries based on established facts and the degree of responsibility of the person concerned (also mentioned hereinafter as "alleged wrongdoer").

Personal data will not be used for any purposes other than the performance of the activities specified above. Otherwise, data subjects will be informed accordingly.

**Purpose (s) of the processing**

- Staff administration
- Relations with external parties
- Procurement and accounting
- Administration of membership records
- Auditing
- Information administration
- Other (please give details):

**Lawfulness of Processing**

- The legal basis for the above processing operations are:

- the Staff Regulations and Conditions of Employment of Other Servants of the European Union (CEOS) and in particular Articles 24, 86 and Annex IX of the Staff Regulations and Articles 11, 50a and 119 of the CEOS;
- Decision of EIOPA's the Management Board laying down general implementing provisions on the conduct of on the administrative inquiries and disciplinary proceedings of 12 May 2022 (EIOPA-MB-22/078). Processing is necessary:

- for the performance of a task carried out in the public interest – Article 5(1)(a) of the Regulation
- for compliance with a legal obligation to which the Controller is subject
- for the performance of a contract to which the data subject is party or in order to take steps at the request of the data subject prior to entering into a contract
- in order to protect the vital interests of the data subject or of another natural person

Or

- Data subject has given his/her unambiguous, free, specific and informed consent

### Data Subject's Rights

#### Information on how to exercise data subject's rights

Data subjects may exercise their data privacy rights provided in Articles 17 to 24 of the Regulation (EU) 1725/2018.

Data subjects have the right to:

- access their personal data, receive a copy of them in a structured and machine-readable format, as well as request their rectification or update in case they are not accurate.
- request the erasure of their personal data, as well as object to or obtain the restriction of their processing.
- withdraw their consent to the processing of their personal data at any time in case such processing is based solely on their consent.

For the protection of the data subjects' privacy and security, every reasonable step shall be taken to ensure that their identity is verified before granting access, or rectification, or deletion.

Should data subjects wish to access/rectify/delete their personal data, or receive a copy of them, or object to/restrict their processing, please contact [Human.Resources@eiopa.europa.eu] or [DPO@eiopa.europa.eu](mailto:DPO@eiopa.europa.eu)]

#### Complaint:

Any complaint concerning the processing of the data subjects' personal data can be addressed to EIOPA's Data Controller ([fausto.parente@eiopa.europa.eu](mailto:fausto.parente@eiopa.europa.eu)) or EIOPA's Data Protection Officer ([DPO@eiopa.europa.eu](mailto:DPO@eiopa.europa.eu)). Alternatively, data subjects can also have at any time recourse to the European Data Protection Supervisor ([www.edps.europa.eu](http://www.edps.europa.eu)).

#### Restrictions:

Without prejudice to the above, rights might be restricted in accordance with EIOPA’s decision on the restriction of data subject’s rights (EIOPA-MB-19-056).

In particular, the right of information of the alleged wrongdoer might be restricted so as not to undermine the ongoing investigations.

In addition, the right of access of all the persons involved might also be restricted in order to guarantee the confidentiality of the above procedures as well as protect the rights and freedoms of all the persons involved.

### Categories of Data Subjects & Personal Data

Categories of Data Subjects
<input checked="" type="checkbox"/> EIOPA permanent staff, Temporary or Contract Agents <input checked="" type="checkbox"/> SNEs or trainees <input type="checkbox"/> Visitors to EIOPA (BOS, MB, WG, Seminars, Events, other) If selected, please specify: <input type="checkbox"/> Providers of good or services <input type="checkbox"/> Complainants, correspondents and enquirers <input type="checkbox"/> Relatives and associates of data subjects <input checked="" type="checkbox"/> Other (please specify): Identification data and contact details of the external investigators.
Categories of personal data
<p><b>(a) General personal data:</b></p> <p>The personal data contains:</p> <input checked="" type="checkbox"/> Personal details (name, address etc) <input checked="" type="checkbox"/> Education & Training details <input checked="" type="checkbox"/> Employment details <input checked="" type="checkbox"/> Financial details <input checked="" type="checkbox"/> Family, lifestyle and social circumstances <input checked="" type="checkbox"/> Other (please give details):
<p>Personal data received in the context of preliminary assessments, administrative inquiries and disciplinary proceedings may be used to evaluate the information received and assess whether a wrongdoing has occurred.</p> <p>In particular, such data comprises:</p> <ul style="list-style-type: none"> <li>- identification data, professional data and other personal data;</li> <li>- information relating to the behaviour, action, inaction of persons subject of an investigation, a pre-disciplinary or a disciplinary procedure;</li> </ul>

- the legal qualification of the behaviour, action, inaction with regard to the Staff Regulations/ CEOs and other obligations;
- the individual responsibility of the person concerned, including his/her financial responsibility (Article 22 Staff Regulations);
- imposed sanctions, including potential disciplinary measures.

During the preliminary assessment, the appointed investigator(s) prepare(s) an assessment on the basis of the factual information that are at his/her disposal and/or are provided by the person requesting assistance. The investigator may also reach out to the alleged wrongdoer and/or witnesses.

During administrative inquiries and disciplinary proceedings, the appointed investigators, the Appointing Authority or the Disciplinary Board may use any of the means legally available to them for collecting information that is relevant for their investigation, including obtaining documents, carrying out on-the-spot investigations (including accessing computer data) and summoning any person subject to the Staff Regulations to provide information. They can also request assistance from any other relevant person.

More concretely,

- **During an Administrative Inquiry:**

OLAF is informed about the name of the person concerned and the allegations, and about the name of the alleging party if relevant (need-to-know basis).

The staff member who is alleging the wrongdoing is informed about the Investigator/ Investigation Panel members upon establishment of an Investigation Panel. S/he will receive a copy of his/her hearing and a summary (conclusions) of the investigation for potential comments on facts related to her/him.

The person concerned is informed about the opening of an inquiry and the establishment of an Investigation Panel/ appointment of an Investigator unless that information would hinder the inquiry. S/he is informed about the allegations against her/him accordingly, and the name of the alleged victim in case of harassment (in other administrative enquiries only if this does not hinder the inquiry or harm the interest of this person). S/he will receive a copy of the minutes of his/her hearing and the investigation report (conclusions) for comments on the facts related to him/her before it is sent to the Appointing Authority. The person concerned has also the right to receive, upon express request, all documents directly linked to the allegations made against her/him, subject to the protection of the legitimate interests of third parties (see below).

The Investigator(s) is(are) informed about the identity of the alleging person and the person concerned in view of, first, confirming the absence of conflict of interest and, second, of conducting her/his (their) investigation. S/he (They) drafts the minutes of the hearings and the Report on their Investigation, including recommendations to the Appointing Authority.

Witnesses are informed about the identity of the person concerned and, where relevant, the alleging person as well as the allegations (a need-to-know basis). Their identity is disclosed except if this would harm their legitimate interests.

The Appointing Authority has access to the allegations, questionnaires, evidence collected, the report of Investigation Panel. S/he hears the person concerned before taking his decision and may organise hearings with any other party. S/he informs the two parties when s/he closes the proceedings on a "no case". S/he informs only the person concerned about any other decision. In case of a decision to open a disciplinary

process with or without Disciplinary Board (pre disciplinary process), s/he can organise hearings that will be recorded.

- **When initiating Disciplinary Proceedings**

Disciplinary proceedings are initiated by the Appointing Authority who informs the person concerned in a note notifying her/him of the accusations against her/him and the choice of procedure to be followed (referral or not to the Disciplinary Board).

The person concerned has the right to receive her/his complete personal file and to make copies of all relevant documents.

The Disciplinary Board receives the report of the Appointing Authority. It can organise hearings. It drafts an opinion to address to the person concerned and the Appointing Authority.

**(b) Special categories of personal data**

The personal data reveals:

- Racial or ethnic origin
- Political opinions
- Religious or philosophical beliefs
- Trade union membership
- Genetic or Biometric data
- Data concerning health, sex life or sexual orientation

It cannot be excluded that any of the above-mentioned special categories of personal data are revealed in the context of the proceedings in question.

**Categories of Recipients & Data Transfers**

**Recipient(s) of the data**

- Managers of data subjects
- Designated EIOPA staff members  
If selected, please specify:  
The Appointing Authority and his/her assistant; HR Unit (on a need-to-know basis); Legal Unit (on a need-to-know basis); DPO (on a need-to-know basis); staff witnesses (on a need-to-know basis)
- Relatives or others associated with data subjects (if needed)
- Current, past or prospective employers
- Healthcare practitioners
- Education/training establishments
- Financial organisations
- External contractor (such as external lawyers)
- Other (please specify):

Investigators mandated ad-hoc for a specific investigation have access to the information relevant for the preliminary assessment and when conducting the administrative inquiry.

In particular, in accordance with the relevant legal provisions, during or after the closure of a preliminary assessment, administrative inquiry or disciplinary proceedings that may possibly follow, the personal data collected may be partially or fully communicated on a strict need-to-know basis to other relevant parties, such as the Appointing Authority (Complete file of investigation, pre-disciplinary and disciplinary procedure), the Disciplinary Board (Complete file of investigation, pre-disciplinary and disciplinary procedure), OLAF (name of the parties and disciplinary decision in case of investigation by OLAF), European Ombudsman, Court (European, national), other relevant EIOPA staff (Legal and HR Unit), the Paymaster Office (disciplinary decision if financial impact), as well as external lawyers.

Data transmissions and data transfer(s)

- To other EU Institutions/Agencies/Bodies  
If selected, please specify: see above under "Recipient(s) of the data"
- To other recipients within the EU (e.g. NCAs): see above under "Recipient(s) of the data"
- To third countries: Not Applicable  
If selected, please specify:  
Whether suitable safeguards have been adopted:
  - Adequacy Decision of the European Commission<sup>2</sup>
  - Standard Contractual Clauses (SCC)
  - Binding Corporate Rules (BCR)
  - Administrative Arrangements between public Authorities (AA)
- To international organisations: Not Applicable  
If selected, please specify the organisation and whether suitable safeguards have been adopted:

Automated Decision Making

Automated Decision-making, including profiling

A decision is taken in the context of this processing operation solely on the basis of automated means or profiling:

- No
- Yes

In case of an automated decision-making or profiling, please explain:

Not Applicable

<sup>2</sup> Third countries for which the European Commission has issued adequacy decisions are the following: [Adequacy decisions \(europa.eu\)](https://europea.eu)

## Retention Period &amp; Security Measures

Retention period
<p>How long will the data be retained?</p> <p>The decision taken following a preliminary assessment closing the case, as well as the decision following an administrative inquiry or a disciplinary procedure, are kept in the HR archives with limited access rights defined on a strict need-to-know basis, for a period of time that would be necessary in order to address instances of potential repeated misconduct on the part of the person concerned.</p> <p>In particular, the following rules apply:</p> <ol style="list-style-type: none"> <li>1) Decisions in cases where disciplinary proceedings are opened are kept for 20 years from the date of the Executive Director's decision closing the disciplinary proceedings;</li> <li>2) Decisions in cases where a warning is issued as a result of the administrative inquiry as well as in cases where administrative inquiries are closed without any follow-up, are kept for 5 years from the date on which the Executive Director decides to take no action or to issue the warning;</li> <li>3) Decisions following a preliminary assessment which have not led to an inquiry, are kept for 2 years.</li> </ol> <p>Upon completion of the procedure, the Legal Unit will archive the report and annexes as well as subsequent decisions in a confidential folder with limited access rights for the periods of time mentioned above.</p> <p>In addition,</p> <ol style="list-style-type: none"> <li>1) A copy of the warning issued in the context of administrative inquiries will be stored in the personal file of the person concerned. The person concerned may ask the Appointing Authority to have it removed from his/her personal file 18 months after the date of the warning.</li> <li>2) When a decision is taken not to take further action, such a decision may be stored in the personal file, if the staff member agrees.</li> <li>3) A copy of the decisions imposing disciplinary measures are kept in the personal file of the person concerned.</li> </ol> <p>External investigators involved in any of the above procedures shall be asked to delete all the personal data received in the course of their investigations 6 months after they have submitted their report.</p> <p>Files will not be kept beyond the periods specified above unless the personal data is rendered anonymous.</p>
<p>For further processing envisaged beyond the original retention period for historical, statistical or scientific purposes, please specify whether the personal data will be anonymised:</p> <p><input type="checkbox"/> No</p> <p><input checked="" type="checkbox"/> Yes</p>
Technical & organisational security measures taken

Several technical and organisational measures have been adopted in order to ensure the optimum security of the documents and personal data collected in the context of the procedures described under section 'Description and Purpose of the Processing'.

In particular, data are stored in EIOPA's internal document management system (ERIS), Outlook and Extranet (secured system used for sharing data with the investigator). Access to any relevant part of ERIS, Outlook and Extranet is only possible for designated users on a need-to-know basis.

Hard copies of documents are stored in locked cupboards with limited access rights.