

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

### ▶ Administrative inquiries and disciplinary proceedings

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#### General information

Introduction
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> .
Contact Details of Data Controller(s)
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>
Contact Details of the Data Protection Officer
Eleni Karatza Westhafenplatz 1, 60327 Frankfurt am Main, Germany <a href="mailto:dpo@eiopa.europa.eu">dpo@eiopa.europa.eu</a>
Contact Details of Processor

<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 Unit

### Description and Purpose of the Processing

#### Description of Processing

Personal data are processed to conduct administrative inquiries and disciplinary proceedings within EIOPA. Administrative inquiries and disciplinary proceedings are conducted for the purpose of investigating a possible failure by staff to comply with their obligations under the Staff Regulations respectively the Conditions of Employment of Other Servants.

Administrative inquiries within EIOPA seek to determine and are aimed to report facts and circumstances of a case to EIOPA's Executive Director, establishing whether the relevant rules and procedures applicable to the situation under investigation have been respected and determining any individual responsibility, having regard to 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.

#### 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

- Legal Basis justifying the processing:
  - Regulation (EU) N° 1094/2010 of the European Parliament and of the Council of 24 November 2010 setting up a European Insurance and Occupational Pensions Authority (the "Regulation")
  - Staff Regulations of Officials of the European Union (hereafter "Staff Regulations") as laid down by Council Regulation (EEC, EURATOM, ECSC) No 259/68 and in particular Article 86 and Annex IX to the Staff Regulations, and to the Conditions of Employment of Other Servants of the European Union (hereafter "CEOS"), and in particular Article 50a and 119 thereof
  - 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).
  - Decision of the Executive Director on the establishment of the European Insurance and Occupational Pensions Authority's (EIOPA) Disciplinary Board (EIOPA-18-438).

- 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 or have them directly transmitted to another controller, 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/have it transmitted to another controller, 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 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 (Note 8):

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).

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 type="checkbox"/> Other (please specify):
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>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 identification data, professional data and other personal data 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.</p> <p>Data may be used to evaluate the information received and assess whether wrongdoing has occurred. Data comprises information on</p> <ol style="list-style-type: none"> <li>(1) the behaviour, action, inaction of persons subject of an investigation, a pre-disciplinary or a disciplinary procedure;</li> <li>(2) the legal qualification of the behaviour, action, inaction with regard to the Staff Regulations/ CEOS and other obligations;</li> <li>(3) the individual responsibility of the person concerned, including his/her financial responsibility (Article 22 Staff Regulations);</li> </ol>

(4) imposed sanctions, including potential disciplinary measures.

**Administrative Inquiry:**

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

The staff member who is alleging (“allegator”) 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 staff member who is accused of an alleged wrongdoing (“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 allegator 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 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.

The Investigator(s) is(are) informed about the identity of the allegator and 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 allegator as well as the allegations (a need-to-know basis). Their identity is disclosed except if this would harm their legitimate interest.

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 2 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.

**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 staff 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 (need to know basis); Legal Team (need to know basis); DPO; staff witnesses (need to know basis)
- Relatives or others associated with data subjects
- Current, past or prospective employers
- Healthcare practitioners
- Education/training establishments
- Financial organisations
- External contractor
- Other (please specify):  
Processors include investigators mandated ad-hoc for a specific investigation.

Note: Pursuant to Article 3(13) of the Regulation, public authorities (e.g. the EDPS, 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 compliant with the applicable data protection rules according to the purposes of the processing.

#### Data transfer(s)

- Within EIOPA or 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  
If selected, please specify:

<p>Whether suitable safeguards have been adopted:</p> <p><input type="checkbox"/> Adequacy Decision of the European Commission<sup>2</sup></p> <p><input type="checkbox"/> Standard Contractual Clauses (SCC)</p> <p><input type="checkbox"/> Binding Corporate Rules (BCR)</p> <p><input type="checkbox"/> Administrative Arrangements between public Authorities (AA)</p> <p><input type="checkbox"/> To international organisations</p> <p>If selected, please specify the organisation and whether suitable safeguards have been adopted:</p>
Data subjects could obtain a copy of SCC, BCR or AA here:

### Automated Decision Making

<p>Automated Decision-making, including profiling</p>
<p>A decision is taken in the context of this processing operation solely on the basis of automated means or profiling:</p> <p><input checked="" type="checkbox"/> No</p> <p><input type="checkbox"/> Yes</p> <p>In case of an automated decision-making or profiling, please explain:</p>

### Retention Period & Security Measures

<p>Retention period</p>
<p>How long will the data be retained?</p> <p>The disciplinary file, and thus any personal data contained in it, is kept in the HR archives for a time period that is necessary in order to take account of it in case of potential repeated misconduct on the part of the person concerned.</p> <p>In practice, the following rules apply:</p> <p>a) files in cases where a decision was taken to open disciplinary proceedings are kept for 20 years from the date of the Executive Director's decision closing the disciplinary proceedings;</p> <p>b) B) files, in cases where a decision was issued as a result of an inquiry as well as in cases where inquiries were 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 a decision to the person concerned;</p>

<sup>2</sup> Third countries for which the European Commission has issued adequacy decisions are the following: [Adequacy decisions \(europa.eu\)](https://european-council.europa.eu/media/en/press-communications/infographic/infographic-adequacy-decisions-2023-01-11.pdf)

c) files, which have not led to an inquiry are kept for 2 years.

Files will not be kept beyond the periods specified above unless the personal data in the disciplinary file is rendered anonymous. In addition, a copy of the decisions taken in the context of administrative inquiries may also be stored in the personal file of the staff member. This includes the copy of the decision to take no further action if the staff member requires so.

For further processing envisaged beyond the original retention period for historical, statistical or scientific purposes, please specify whether the personal data will be anonymised:

No

Yes

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'.