

PRIVACY STATEMENT / RECORD

ADMINISTRATIVE ENQUIRIES AND DISCIPLINARY PROCEDURES

Organisational part of the Agency entrusted with the processing of personal data

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Purpose

Personal data is collected and further processed for the purpose of the management, administration and follow-up of administrative inquiries opened at the request of the Appointing Authority (AA), in view of establishing the facts and, where appropriate, determine whether there has been a failure to comply with statutory obligations incumbent on EEA staff members. This implies the constitution of disciplinary files (paper and electronic), and lists of open and completed cases.

In case the administrative inquiry concludes that the person concerned has failed to comply with his/her statutory obligations, the AA may require opening a disciplinary procedure before the disciplinary board. In accordance with Annex IX to the Staff Regulations, the disciplinary board shall give an opinion on the facts complained of and on any penalty these facts should give rise. The deliberations and proceedings of the disciplinary board shall be secret.

Legal basis

Staff Regulations of officials (hereafter 'Staff Regulations') and the Conditions of employment of other servants of the European Union (hereafter 'CEOS'), and in particular Articles 22 and 86, Annex IX to the Staff regulations and Article 47, 49,50 and 119 of the CEOS.

Type of data processed

Files (paper and electronic) related to administrative inquiries and disciplinary proceedings.

The personal data collected and further processed may concern a staff member or a former staff member suspected to have failed to comply with his/her statutory obligations, a witness or an informant in the course of an administrative inquiry or disciplinary proceeding. Personal data collected and further processed may relate to data subject's identity (title, first name and surname); data subject's function (category and grade); data subject's contact details (email address, telephone numbers, professional and private mail address, place of residence); data subject's banking details (IBAN and BIC codes); data subject's identity documents (passport, ID card number); information pertaining to data subject's career, competencies, language skills, qualifications and professional experience and any other information pertinent to

the processing operation. Personal data may also relate to the behaviour, action or inaction of the person subject to an administrative inquiry and/or a disciplinary procedure; the legal definition of this behaviour, action or inaction by reference to the Staff Regulations and other obligations incumbent on the person concerned; the personal liability of the person concerned, including financial liability (Article 22 of the Staff Regulations); and, as the case may be, the sanction imposed on the person concerned.

Processing of sensitive data in the framework of an administrative inquiry and/or disciplinary procedure shall be avoided, unless one of the circumstances foreseen in the Regulation interpreted in a restrictive sense, can be applied.

Lawfulness of processing

The processing is based on Article 5.1 (a),(b) of [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 (hereinafter the Regulation).

Data recipients

Access to personal data is limited to the persons authorized only or those who have a need to know. Any recipient of the data is bound by the rules set in the Staff Regulations and, where appropriate, any additional rules on confidentiality. Furthermore, any recipient of the data shall be reminded of their obligation not to use the data received for other purposes than the one for which they were transmitted.

- Administrative Inquiries Investigation Panel Members
- Disciplinary Board Members
- Secretary of the Disciplinary Board
- EU-OSHA staff dealing with the file, incl. the Legal service
- EU-OSHA Director
- The competent services in charge of the execution and follow-up of the disciplinary decision (HR, PMO) are informed of the sanction imposed (e.g. PMO for salary processing where the final disciplinary decision entails financial consequences for the staff member concerned).
- Where the facts complained of lead to suspicion of financial irregularities, the conclusions related to the facts are communicated to the specialised financial irregularities panel.

The data subject's rights

The staff member concerned in a disciplinary investigation shall have the right to obtain his/her complete disciplinary file and take copies of all documents relevant to the proceedings, including exonerating evidence.

To exercise the right of access the data subject shall contact in writing either the data controller or Chairperson of the Disciplinary Board at their office email address.

However in the course of a disciplinary procedure, the right of access of staff members involved may be restricted within limits of the possible exceptions set out in the Regulation. These exceptions shall be strictly applied in the light of necessity and they shall be balanced in relation to the right of defence.

In case of whistle-blowers, informants or witnesses, any restriction to the right of access of these persons shall be in line with the Regulation;

The identity of the whistle-blowers, informants or witnesses shall be kept confidential in as much as this would not contravene national rules regarding judicial proceedings. Witnesses and informants shall be informed of the principal reasons on which the application of the restriction is based and of their right to have recourse to the EDPS.

Right of rectification

The Regulation provides the data subject with "the right to rectify inaccurate or incomplete data".

- Data subjects have the opportunity to comment on facts which relate to them and express an opinion on the report drawn in the framework of an administrative inquiry. The conclusions of the investigation shall make reference to their comments.
- Data subjects may request the addition of comments or documents to their personal disciplinary file and have the right to their personal data in order to ensure completeness and accuracy of their disciplinary file, as for instance decisions are made in the progress of the administrative inquiry and/or disciplinary procedure.

To exercise the right of access the data subject shall contact in writing either the data controller or chairperson of the Disciplinary Board at their office email address.

The above mentioned rights of access and rectification may be restricted within the limits of the possible exemptions set out in the Regulation. In addition, the right of information may be restricted in certain cases in line with the Regulation. In such cases, data subjects shall be informed of the principal reasons on which the application of the restriction is based and of their right to have recourse to the EDPS.

Witnesses and informants have the right of access and rectification of the records of their hearing. These rights of access and rectification may be restricted in line with the provisions of Article 20 aforesaid. The identity of witnesses and informants shall be kept confidential in as much as this would not contravene national rules regarding judicial proceedings. Witnesses and informants shall be informed of the principal reasons on which the application of the restriction is based and of their right to have recourse to the EDPS.

Rectifications shall allow staff members concerned to add their comments and to include recourse or appeal decision in their files in order to ensure completeness of their disciplinary files.

Information on the conservation period of data

Data subject's personal data are retained for a period that is necessary for the purpose for which they were collected and further processed, namely:

- Files relating to administrative inquiries and files relating to disciplinary procedure shall be kept for a maximal period of twenty years as from the date the administrative inquiry was closed or as from the date of the final disciplinary decision. The files may only be consulted by the staff member(s) concerned or the disciplinary board members.
- In case where an administrative inquiry is closed without a disciplinary follow-up, including cases following a pre-disciplinary procedure closed without follow-up or with a reprimand, the file shall be kept for a maximum period of five years as from the date the administrative inquiry was closed.
- Only the final disciplinary decision shall be kept in the personal file of the person concerned taking into account the provisions of Article 27 of Annex IX to the Staff Regulations concerning the request for deletion of such data .
- In accordance with Article 22(2) of Annex IX to the Staff Regulations, if the AA decides to close the case without imposing any disciplinary penalty, and it informs the person concerned accordingly in writing without delay, there shall be no traces of this decision in the personal file, unless the person concerned requests so.

Security measures

Throughout this procedure only authorised people are attributed access rights and only on a "need-to-know" basis.

Any possible security measure is taken to prevent any improper use of or unauthorized access to the electronic file. Procedure-related documents are kept in a secure environment, on an encrypted data carrier, or locked in cupboards/drawers.

Request for information

For any further information regarding the handling of their personal data, data subjects can address their request to EU-OSHA Data Protection Officer at: [dpo\(at\)osha.europa.eu](mailto:dpo(at)osha.europa.eu).

Recourse to the EDPS

Data subjects are entitled to make recourse to the European Data Protection Supervisor: <http://www.edps.europa.eu>, should they consider that the processing operations do not comply with the Regulation.

Date when processing starts

Starting date of administrative inquiry or of the disciplinary proceeding.

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