



Data Protection Notice

regarding the processing of personal data in the context of administrative inquiries and disciplinary proceedings

In accordance with Regulation (EU) 2018/1725 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 ('Regulation'), the Research Executive Agency ("Agency" or "REA") collects personal data only to the extent necessary to fulfil a precise purpose related to our tasks.

1. WHY DO WE COLLECT YOUR PERSONAL DATA?

The purpose of the data processing is to allow REA and HR.IDOC ("IDOC"), on behalf of the Agency, to evaluate on the basis of information gathered via inquiries if there was a breach by a staff member of his or her obligations under the Staff Regulations, and, if necessary, to issue a disciplinary penalty.

IDOC conducts administrative inquiries, pre-disciplinary, disciplinary and suspension proceedings on behalf of the Agency (pursuant to a Service Level Agreement). IDOC collects and processes personal data within this mandate. It also takes part in inquiries carried out to assess whether the professional environment of staff member(s) contributed to an occupational disease.

If requested by IDOC, REA provides the data for the preliminary assessment stage (pre-inquiry): when the Agency is informed of a situation with a possible disciplinary dimension. IDOC then conducts its assessment.

The data subjects who may be affected by this processing activity include Statutory staff (Contract Agents, Temporary Agents, Seconded Officials), the person under investigation, witnesses, third parties (persons indicated in the file), members of the Disciplinary Board and alleged victims (if any).

The data processed always depend upon the stage of the disciplinary procedure, nature and severity of the disciplinary investigation whilst, at all times, applying the data minimisation principle. Depending on the reason or action forming the basis of the investigation and disciplinary action, REA may also need to process special categories of personal data.

2. WHO IS RESPONSIBLE FOR THIS PROCESS?

The data controller is the Research Executive Agency. For organisational reasons, the role of the data controller is exercised by the Director of REA. The controller may be contacted at Marc.Tachelet@ec.europa.eu

In addition, REA has assigned to the Investigation and Disciplinary Office of the European Commission the role of "full case handling service" including the stages of administrative inquiries and disciplinary procedures.

Email DG HR IDOC: HR-MAIL-IDOC@ec.europa.eu

Email DG DIGIT for “ICT services” (ARES/HAN, functional mailboxes, etc.) : DIGITMOU@ec.europa.eu

3. WHAT IS THE LEGAL BASIS TO COLLECT YOUR DATA?

The processing is necessary for the performance of tasks carried out in the public interest or in the exercise of official authority vested in the Union institution or body (Article 5(1)(a) of the Regulation) and for compliance with a legal obligation to which the controller is subject (Article 5(1)(b) of the Regulation), as established by the following legal acts:

- Articles 22, 26, 73 and 86 and Annex IX of the Staff Regulations (Council Regulation (EEC, Euratom, ECSC) No 259/68 of 29 February 1968 laying down the Staff Regulations of Officials of the European Communities (the "SR") and articles 49, 50 and 119 of the Conditions of Employment of Other Servants of the European Communities (the "CEOS");
- Commission Decision C(2019) 4231 of 12/06/2019 laying down general implementing provisions on the conduct of administrative inquiries and disciplinary procedures which has been adopted by analogy by the Agency in its decision REA/SC(2019)WP.3.3 of 11/09/2019;

The Agency may also process special categories of personal data under Articles 10(2) of the Regulation in cases where:

- the 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 and social protection law insofar as it is authorised by Union law providing for appropriate safeguards for the fundamental rights and the interests of the data subject 10(2)(b);
- the processing relates to personal data which are manifestly made public by the data subject (Article 10(2)(e)).
- the processing is necessary for the establishment, exercise or defence of legal claims or whenever the Court of Justice is acting in its judicial capacity (Article 10(2)(f)).
- the processing is necessary for reasons of substantial public interest, on the basis of Union law which shall be proportionate to the aim pursued, respect the essence of the right to data protection and provide for suitable and specific measures to safeguard the fundamental rights and the interests of the data subject (Article 10(2)(g)).

4. WHICH PERSONAL DATA ARE COLLECTED?

The data processed are case-specific and the data processed adhere to the data minimisation principle in that they are adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed.

Preliminary assessment (pre-inquiry):

- Identification and administrative data of the REA staff member(s) concerned.
- Data concerning allegations / declarations.
- Special categories of personal data: depending on the reason or action forming the basis of the investigation and disciplinary action, REA may need to process special categories of personal data, such as: racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership, and the processing of data concerning health or data concerning a natural person's sex life or sexual orientation.

Administrative inquiry and disciplinary proceedings (IDOC):

At the outset of a case, IDOC receives initial information that usually contains personal data about the person subject of the allegations.

IDOC analyses the collected information in order to establish the facts and circumstances of the case, with a view to determining whether there is a breach of the obligations under the Staff Regulations.

Upon the closure of an inquiry, pre-disciplinary or disciplinary proceedings, personal data in IDOC's file can be communicated to other services on a need-to-know basis only. This is done, for example, because of their role in processing or following up on the disciplinary file. This mostly concerns OLAF, the Secretariat-General, the Legal Service, the Disciplinary Board, the the Authority Enabled to Conclude Contract of Employment ("AECC") and the Security Directorate of the Directorate-General Human Resources and Security. The information may be communicated, upon request, to the EU Court or to another court with which the Commission is required to cooperate.

The AECC final decision

The AECC final decision (not supporting documentary evidence), with or without sanctions, is stored in the personal file of the person concerned in REA.

For either the person connected with the allegations, affected by the allegations or a witness, REA may process data regarding identity, duties, contact details, career information, skills, training, professional experience individual responsibility (and financial liability), suspected or committed offences, criminal convictions, legal representative, missions and journeys, traffic data, social security, private life, family data and any other relevant data to the case.

The data may also include information relating to behaviour or perception of the facts of the case.

When IDOC, or where applicable the AECC consider it appropriate, the hearing may also be audio recorded or held via videoconference.

Depending on the reason or action forming the basis of the investigation and disciplinary action, REA may also need to process special categories of personal data.

Personal data will not be used for an automated decision-making, including profiling.

5. WHO WILL HAVE ACCESS TO YOUR PERSONAL DATA?

The personal data are stored in a secured physical and electronic environment, to prevent unlawful or unintended access or transfer of data to persons who do not have a 'need to know'.

The information REA collects will not be given to any third party, except to the extent and for the purpose REA may be required to do so by law.

Transfers of personal data are always limited to what is strictly necessary to inform the addressee or allow him or her to take appropriate action. The addressees are bound by their obligations under the Staff Regulations or by other applicable provisions on confidentiality.

Data may be disclosed to the following recipients (the type of recipient may vary according to the type of administrative inquiries and during disciplinary proceedings):

Within REA:

- Director of the Agency in his/her capacity of Authority Empowered to Conclude Contracts (AECC);
- Heads of Department;
- Head of Unit "Administration";

- Head of Sector HR;
- REA HR Sector (HR staff in charge of the file);
- REA Internal services (Legal Service, Internal Control);
- Head of Unit "Finance".

Outside REA:

- DG Human Resources and Security (DG HR);
- Investigations and Disciplinary Office (IDOC);
- REA Disciplinary Board (comprised of staff from other agencies/institutions/ASN)
- Office for the Administration and Payment of individual Entitlements (PMO);
- Medical Service;
- Doctor(s) Appointed by the Agency;
- Doctor(s) appointed by the data subject concerned;
- Medical Committee;
- European Anti-Fraud Office (OLAF);
- European Data Protection Supervisor (EDPS);
- Financial Irregularities Panel (PIF);
- European Court of Auditors (ECA);
- European Ombudsman;
- The Court of Justice of the European Union (Court of Justice, the General Court of the European Union);
- Judicial/competent EU national authority that requests it for the purposes of national proceeding;
The European Data Protection Supervisor in accordance with Article 58 of the Regulation.

6. HOW LONG DO WE KEEP YOUR PERSONAL DATA?

The Agency applies the principles and retention periods indicated in the Common-Level Retention List for European Commission Files by analogy¹:

In addition:

Cooperation in investigations and disciplinary procedures

Files covering complaints to the administration under Article 90(2) of the SR and requests for assistance under Article 24 and 90(1), as well as complaints or requests under Article 22(c) are retained for a period of 15 years before being transferred to the historical archive for permanent preservation.

If IDOC requires REA to process personal data/traffic data relating to internet connections and/or the use of e-mail or telephone in the course of an administrative inquiry and/or disciplinary proceedings, these personal data will be erased by the Agency once the file has been transmitted to IDOC. IDOC may keep the file for a longer period to establish, exercise or defend a right in a legal claim pending before a Court, OLAF and/or the European Ombudsman.

Personal files

In accordance with Article 22(2) of Annex IX of the SR, if the AECC decides to close the case without imposing any disciplinary penalty, and it informs the person concerned accordingly in

¹ See Common Commission-Level Retention List for European Commission Files, SEC(2019)900: <http://ec.europa.eu/transparency/regdoc/index.cfm?fuseaction=list&n=10&adv=0&coteId=2&year=2019&number=900&dateFrom=&dateTo=&serviceId=&documentType=&title=&titleLanguage=&titleSearch=EXACT&sortBy=NUMBER &sortOrder=DESC>

writing without delay, there shall be no record of this decision in the personal file unless upon request of the person concerned.

Concerning the retention of the disciplinary decision that imposes a penalty/sanction on the staff member concerned, a copy of the decision will be kept in the personal file of the jobholder according to Article 27 of Annex IX of the SR that determines the time limits from when the person concerned may request the withdrawal of any mention of the disciplinary measure that figures in the disciplinary file:

- i. 3 years in case of a written warning or reprimand
- ii. 6 years in case of any other penalty.

The AECC shall decide whether to grant this request.

Personal data will be kept beyond the time-limits indicated above where they may be required for consultation in the context of legal or administrative procedures (for example claims for damages, requests by the Ombudsman, appeals to the Court of Justice etc.) which are still pending when the time-limit expires.

7. WHAT ARE YOUR RIGHTS?

You may have access to your personal data and may exercise your right of access / rectification / erasure / restriction / data portability / objection (where applicable) by sending an email to Marc.Tachelet@ec.europa.eu.

Your right to information, access, rectification, erasure, restriction or objection to processing, communication of a personal data breach or due to the confidentiality of electronic communications may be restricted only under certain specific conditions as set out in the applicable [Restriction Decision](#) (OJ L 198, 4.6.2021, p. 5–14) in accordance with Article 25 of Regulation (EU) 2018/1725.

8. CONTACT INFORMATION

In case you have any questions about the collection/processing of your personal data, you may contact the data controller who is responsible for this processing activity by using the following email address: Marc.Tachelet@ec.europa.eu

Further to the above, the following instances can be addressed:

REA Data Protection Officer (DPO): REA-DATA-PROTECTION-OFFICER@ec.europa.eu

In case of conflict, complaints can be addressed to the European Data Protection Supervisor: EDPS@edps.europa.eu.