



EUROPEAN RESEARCH EXECUTIVE AGENCY (REA)

RECORD OF PERSONAL DATA PROCESSING ACTIVITY

In accordance with Article 31 of the 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), individuals whose personal data are processed by the Research Executive Agency (REA or Agency) in any context whatsoever are to be protected with regard to the processing of personal data and the Agency has to keep records of their processing activities.

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NAME OF THE PROCESSING ACTIVITY

Administrative Inquiries and Disciplinary Proceedings

1. MANDATORY RECORD UNDER ARTICLE 31 OF THE REGULATION

1.1. Name and contact details of controller

The controller is the European Research Executive Agency (REA) or “the Agency” as represented by its Director¹.

1.2. Data Protection Officer (DPO)

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

1.3. Name and contact details of joint controller (where applicable)

Not applicable.

1.4. Name and contact details of processor (where applicable)

REA has assigned to the Investigation and Disciplinary Office of the European Commission (IDOC) the role of “full case handling service” including the stages of administrative inquiries and disciplinary procedures. The powers of the Authority Empowered to Conclude Contract of Employment/ l’Autorité Habilitée à conclure des contrats d’engagement (“AHCC”) remain with REA, with IDOC carrying out the ‘operational’ part of the procedure.

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).

1.5. Purpose of the processing

The data processing aims at allowing the AHCC and IDOC as processor, 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.

If requested by IDOC, REA provides the data for the preliminary assessment stage (pre-inquiry): when REA is informed of a situation with a possible disciplinary dimension, it forwards the available information to IDOC for assessment.

IDOC conducts administrative inquiries, pre-disciplinary, disciplinary and suspension proceedings on behalf of REA. It also takes part in inquiries carried out to assess whether the professional environment of staff member(s) contributed to an occupational disease.

REA Disciplinary Board

Based on the investigation, report, the AHCC may decide to initiate disciplinary proceedings before the Disciplinary Board in cases provided for under Article 3 of Annex IX to the Staff Regulations. The composition of the REA Disciplinary Board is based on two common inter-Executive Agency Lists of candidates to fill the positions as permanent members and their alternates (List A), and additional members (List B) for the enlargement of the Disciplinary Boards of the Executive Agencies (EA). Lists A & B will be updated on an annual basis.

¹ [European Research Executive Agency - Organisation chart](#)

1.6. Legal basis for the processing

Personal data are processed pursuant to Regulation 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 (the Regulation).

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 recital 22 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:

- Council Regulation (EC) No 58/2003 of 19 December 2002 laying down the statute for executive agencies to be entrusted with certain tasks in the management of Community programmes, OJ L 11, 16.1.2003;
- REA Establishment act: Commission Implementing Decision (EU) 2021/173 of 12 February 2021 establishing the European Climate, Infrastructure and Environment Executive Agency, the European Health and Digital Executive Agency, the European Research Executive Agency, the European Innovation Council and SMEs Executive Agency, the European Research Council Executive Agency, and the European Education and Culture Executive Agency and repealing Implementing Decisions 2013/801/EU, 2013/771/EU, 2013/778/EU, 2013/779/EU, 2013/776/EU and 2013/770/EU, OJ L 50, 15.2.2021;
- REA Delegation Act: Commission Decision C(2021)952 of 12 February 2021 delegating powers to the European Research Executive Agency with a view to the performance of tasks linked to the implementation of Union programmes in the field of Research and Innovation, Research of the Fund for Coal and Steel and Information Provision and Promotion Measures concerning Agricultural Products comprising, in particular, implementation of appropriations entered in the general budget of the Union;
- 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 (SR) and Articles 49, 50 and 119 of the Conditions of Employment of Other Servants of the European Communities (CEOS);
- Commission Decision C(2019) 4231 of 12 June 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 September 2019;
- Memorandum of Understanding (MoU) on common lists of candidates for the Executive Agencies' Disciplinary Boards;
- Processing based on consent under Article 5(1)(d): Nominated candidates provided their explicit consent to be included in these lists and were requested to provide their agreement to be included on specific Agency Disciplinary Boards.

REA may 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 (Article 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, to 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)).

1.7. Categories of data subjects

REA Statutory staff (Contract Agents, Temporary Agents, Seconded Officials), the person under investigation, witnesses, third parties (persons indicated in the file) and alleged victims (if any).

This includes staff members and former staff members: officials in active employment, on secondment, on leave on personal grounds, on non-active status, on leave for military service, on parental or family leave; officials on disability and retired officials; temporary staff and former temporary staff; contract staff and former contract staff; national experts; trainees and persons employed under private law contracts working on Agency premises.

REA Disciplinary Board

REA Statutory staff (Contract Agents, Temporary Agents, Officials) and from any other Executive Agency that have been nominated as candidates for the Executive Agencies' Disciplinary Boards as included in the inter-agency lists A & B of Disciplinary Board members.

1.8. Categories of personal data

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. In addition, any data is only processed strictly on a need-to-know basis.

List of data categories:

- Identification and administrative data (name, surname, personnel number, employment data, grade, function etc.);
- Case-related data (allegations / declarations etc);
- Special categories of personal data (dependent upon the nature of the case);
- Data relating to personal details of the data subject: surname at birth, current surname, forename, street, postcode, place, country, date of birth, town/city of birth, country of birth, sex, nationality, other nationality, telephone numbers, e-mail address, ISDN number, social media relating to the investigation and disciplinary

- action, etc.;
- Data relating to behaviour, action or inaction of the person(s) subject to an administrative inquiry and/or a disciplinary proceeding;
- Data relating to legal qualification of that behaviour, action or inaction having regard to the SR and other obligations incumbent on the person concerned;
- Data relating to individual responsibility of the person(s) concerned, including financial liability (Article 22 of the SR which applies by analogy to the REA staff);
- Data relating to disciplinary measures taken against the person concerned where appropriate;
- Data relating to suspected offences, committed offences, criminal convictions or security measures;
- Data related to hearings via the written procedure (i.e. whenever the data subject concerned cannot be heard under the provisions of Annex IX of the SR);
- Data relating to the legal representative or accompanying person of the data subject: name, surname, postal and email address, telephone number, etc.;
- Data relating to witnesses: name, postal and email address, telephone numbers, etc.;
- Data relating to any persons affected or harmed by the data subject (name, surname, medical data, details of behaviour or actions) leading to the disciplinary procedure;
- Data in the form of personal identification numbers (personnel number, department, unit, sector etc.);
- Data relating to the physical characteristics of the data subject (i.e. audio/video recording);
- Data concerning the private life of the data subject (external activities, friends, hobbies, sports, etc.);
- Financial data concerning salary, allowances and bank accounts of data subject etc;
- Data concerning recruitment and employment contracts of data subject (category of staff, grade, step, duration of the contract, documents relating to the work of the selection committee);
- Data concerning the data subject's family;
- Data concerning missions and journeys of the data subject (dates, destination, minutes etc.);
- Data concerning social security and pensions of the data subject;
- Data concerning expenses and medical benefits of the data subject;
- Traffic data: Personal data relating to internet connections and/or the use of email or telephone may be processed (for example by IDOC) during an administrative inquiry and/or disciplinary proceedings. In this case, the data minimisation principle (Article 4.1(c) of the Regulation) will be applied and IDOC processes only appropriate, relevant and not excessive traffic data in relation to the purpose for which they are further processed (investigation purpose);
- When IDOC, or where applicable the AHCC consider it appropriate, the hearing may also be recorded or held via videoconference (IDOC Guide and Commission Decision C(2019)4231 final.

The data categories listed above are exhaustive, but the listed data fields are non-exhaustive.

- Electronic communications

The access to electronic communications (Article 36) in the course of an administrative inquiry or disciplinary proceeding will be granted only on a case-by-case basis, and in line with the principles of lawfulness, necessity, proportionality

and using the less intrusive means of investigation and in compliance with Article 25 and REA restriction decision², as well as protecting any information transmitted to, stored in, related to, processed by and collected from users' terminal equipment (Article 37).

If the AHCC considers that it is necessary to gain access to electronic communications in the course of an administrative inquiry or disciplinary proceeding (and only on a case by case basis), the criteria defined in the respective EDPS guidelines and in the Regulation, namely, *inter alia* lawfulness, necessity, proportionality and choice of the less intrusive means of investigation will be observed, as well as due observance of the provisions of the Article 25 of the Regulation.

- It may be possible that the Agency (including IDOC for administrative inquiries under Annex IX of the Staff Regulations and disciplinary proceedings before the REA Disciplinary Board) needs to process data that cannot be identified at the stage of the prior check and that can vary according to the nature of the case being dealt with. The Agency (including IDOC for administrative inquiries under Annex IX of the Staff Regulations and disciplinary proceedings before the REA Disciplinary Board) ensures that data processed are adequate, relevant and limited to what is necessary processed in conformity with Article 4(1)(c) of the Regulation.

- **REA Disciplinary Board**

Pursuant to the MoU, identification data (name, surname, professional status, seniority, e-mail address) of the REA Disciplinary Board candidates on lists A & B will be available to authorised personnel in the Executive Agencies. This identification data of members of the constituted REA Disciplinary Board will be shared with the person(s) concerned and their legal representative(s).

1.9. Retention time (time limit for keeping the personal data)

The Agency applies the principles and retention periods indicated in the Common-Level Retention List by analogy.

Administrative investigations

Files containing documents for which a decision has been taken not to launch an administrative investigation are retained for a period of 5 years before being destroyed.

Investigations with disciplinary consequences

Files containing the investigation report, instruments of the disciplinary procedure, correspondence with the person(s) concerned, the decision imposing disciplinary measures and any follow-up (appeals) are retained for a period of 20 years before being destroyed.

² [REA SC decision adopting internal rules concerning restrictions of certain data subjects rights](#)

Investigations without disciplinary consequences

Files containing the investigation report and the documents for which the decision was taken to open a disciplinary procedure are retained for a period of 15 years before being destroyed or transferred to the historical archives for permanent preservation if the lead department is OLAF.

Disciplinary procedures

Files containing documents for which the decision was taken to open a disciplinary procedure, including the instruments of the disciplinary procedure, correspondence with the person(s) concerned, the decision imposing disciplinary measures and any follow-up (appeals) are retained for a period of 20 years before being destroyed.

Cooperation in investigations and disciplinary procedures

Files created by the Agency cooperating with DG HR and OLAF during these investigations and disciplinary procedures are retained for a period of 15 years by the SG and 5 years by the DG/Agency before being destroyed.

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.

IDOC may require the Agency 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. This 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 AHCC 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 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 AHCC shall decide whether to grant this request.

- The Agency applies paragraph 12.4.3 of the Common-Level Retention List by analogy.
- 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.

1.10. Recipients of the data

Data may be disclosed to the following recipients on a need-to-know basis (the type of recipient may vary according to the type of administrative inquiries and during disciplinary proceedings):

Within the Agency:

- Director of the Agency in his/her capacity of Authority Empowered to Conclude Contracts (AHCC);
- Members of the REA Disciplinary Board that are on the inter-agency lists A & B
- Head of Department D;
- Head of Unit "People and Workplace" (HR unit);
- Head of Sector "Selection & Recruitment, Staff Regulations and HR Planning & Reporting";
- HR staff in charge of the file and Secretariat to the REA Disciplinary Board;
- REA Internal services (Legal Service, Internal Control);
- Head of Unit "Finance";

Outside the Agency:

- External legal counsel of the person concerned;
- DG Human Resources and Security (DG HR);
- the Secretariat-General of the Commission (SG);
- the Legal Service of the Commission (SJ);
- Investigations and Disciplinary Office (IDOC);
- Members of the REA Disciplinary Board that are on the inter-agency lists A & B (includes staff from other agencies/institutions and may include former staff members via the Active Senior Network (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;
- Financial Irregularities Panel: where the facts identified lead to a suspicion of financial irregularities, the conclusions related to the facts are communicated to the specialised Financial Irregularities Panel (Articles 66(8) and 73(6) of the Financial Regulation);
- Staff/seconded officials from other Agencies who are appointed to the REA Disciplinary Board. This may include former staff members on the Board in the role of Chair/Vice-Chair). Other Agencies receive the names of REA staff nominated on lists inter-agency A & B.

In addition, data may be disclosed to public authorities, respecting the applicable data protection rules according to the purpose of the processing:

- The European Court of Justice or a national judge as well as the lawyers and the agents of the parties in case of a legal procedure

- The European Anti-Fraud Office (OLAF) in case of an investigation
- The Internal Audit Service of the Commission (IAS)
- The European Court of Auditors (CoA)
- The European Ombudsman
- The European Data Protection Supervisor (EDPS)
- The European Public Prosecutor's Office (EPPO)
- Competent authorities of the Member States. Transfers to competent national authorities such as a National Court may occur where there is an infringement of national law and if such a transfer is necessary for the performance of a task carried out in the public interest or subject to the exercise of public authority of the national authorities;

This transmission is restricted to the information necessary for the legitimate performance of their tasks. They are reminded of their obligation not to use the data received for other purposes than the one for which they were transmitted. If the transfer entails a change of purpose, it is expressly provided for in law and the data subject is informed of it.

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.

1.11. Transfers of personal data to third countries or international organisations

Not applicable.

1.12. Description of security measures

All personal data in electronic format (e-mails, documents, databases, uploaded batches of data, etc.) that are processed during this processing activity are stored on the servers of the European Commission, the operations of which abide by the European Commission's security decisions and provisions established by the Security Directorate and DG DIGIT for such servers and services.

In order to protect personal data, REA has put in place a number of technical and organisational measures. Technical measures include appropriate actions to address online security, risk of data loss/theft/breach, 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.

The data collected and the documents created by REA which contain the data are stored in the case file, which is encrypted. These files can only be accessed by authorised staff with the necessary access rights.

All hard copy data are kept securely in REA premises and can only be accessed by authorised staff with the necessary access rights.

REA staff apply strict measures to ensure that the personal data are not accessed by unauthorised persons. This includes the use of locked cabinets, encrypted email and printing via presentation of personnel badges.

Relevant electronic communications are sent via SECEM encrypted email.

Access to data is granted only to authorised members of REA staff and Secretariat to the REA Disciplinary Board as authorised by the AHCC and/or Head of “Unit People and Workplace” (HR unit) on a strictly need-to-know basis.

1.13. Data Protection Notice

A Data Protection Notice (DPN) relevant to this data processing activity is available within [the Register of records of personal data processing activities in REA](#).