

PROTECTION OF YOUR PERSONAL DATA

This privacy statement provides information about the processing and the protection of your personal data.

Processing operation: ELA process on administrative inquires and disciplinary procedures

Data Controller: European Labour Authority

Record reference: DPR-ELA-2022-0036

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1. Introduction

The European Labour Authority (hereafter 'ELA') is committed to protect your personal data and to respect your privacy. ELA collects and further processes personal data pursuant to [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 (repealing Regulation (EC) No 45/2001).

This privacy statement explains the reason for the processing of your personal data, the way we collect, handle and ensure protection of all personal data provided, how that information is used and what rights you have in relation to your personal data. It also specifies the contact details of the responsible Data Controller with whom you may exercise your rights, the Data Protection Officer and the European Data Protection Supervisor.

The information in relation to processing operation "ELA process on administrative inquiries and disciplinary procedures" undertaken by the European Labour Authority is presented below.

2. Why and how do we process your personal data?

Purpose of the processing operation: The European Labour Authority (ELA) processes data for the purpose of conducting **preliminary assessments, administrative inquiries, pre-disciplinary proceedings, disciplinary and suspension proceedings** carried out in compliance with the applicable rules.

Your personal data will not be used for an automated decision-making including profiling.

3. On what legal ground(s) do we process your personal data

We process your personal data, because, according to Article 5(1) (b) of Regulation (EU) 2018/1725, the processing is necessary for compliance with a legal obligation to which the controller is subject.

Legal basis:

- Regulation (EU) 2019/1149 of the European Parliament and of the Council of 20 June 2019 establishing a European Labour Authority.
- Staff Regulations, Article 22 and Annex IX.
- Conditions of Employment of Other Servants, Articles 11 and 81.
- Draft Decision No 21/2022 of 24 November 2022 of the Management Board laying down general implementing provisions on the conduct of administrative inquiries and disciplinary proceedings.
- ELA Management Board Decision No 20/2022 of 24 November 2022 on internal rules concerning restrictions of certain data subject rights in relation to the processing of personal data in the framework of activities carried out by the European Labour Authority

We may process **special categories of personal data** for the purposes of conducting administrative inquiries and disciplinary proceedings or for the purpose of establishing the facts, therefore Article 10 of the Regulation will apply. In particular, we may process: data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, trade union membership, or/and genetic data, biometric data for the purpose of uniquely identifying a natural person, data concerning health, data concerning a natural person's sex life or sexual orientation.

We may process special categories of personal data indicated in Section 4, because:

(b) 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;

(e) the processing relates to personal data which are manifestly made public by the data subject;

(f) 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;

(g) 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;

(h) the processing is necessary for the purposes of preventive or occupational medicine, for the assessment of the working capacity of the employee, medical diagnosis, the provision of health or social care or treatment or the management of health or social care systems and services on the basis of Union law or pursuant to contract with a health professional and subject to the conditions and safeguards referred to in paragraph 3.

4. Which personal data do we collect and further process?

In order to carry out this processing operation the European Labour Authority collects the following categories of personal data:

Personal data relating to all data subjects (i.e. person concerned and other participating in the inquiry):

- staff member's basic personal information (name, surname, rank and personal staff number);
- staff member's contact details and other personal data concerning the recruitment or the evaluation of the staff member (name of line manager, hiring date, contractual category and grade, organisational entity to which one belongs);
- Events, facts and witness testimonies referring to the staff member involved in the administrative inquiry and disciplinary investigation about the situation with a possible disciplinary dimension;
- Names of the administrative investigator and of the members of the Disciplinary Board.

Personal data relating to data subjects who are the subject of the particular administrative investigation and/or disciplinary proceeding (which may be revealed during the inquiry directly from the concerned staff member(s) or indirectly from witnesses or from documents containing personal data used as evidence):

- personal data related to absences, leave, missions, learning and development and generally to the working performance, economic and social behaviour where relevant to the performance of the staff member's tasks;
- personal data related to the private sphere and life of the staff member (social activities, behaviour), additional data related to the staff member's identity and personal status (gender, age), comments on the abilities and efficiency of the concerned staff member(s);
- only when necessary and related to the administrative inquiry and disciplinary investigation: special categories of personal data (sensitive data) concerning the staff member: health data, religion (or opinions on religion), political opinions (or opinions on political status/opinions), philosophical beliefs (or opinions on philosophical beliefs), or

trade union membership ((or opinions on trade union membership) sex life or sexual orientation(or opinion on sex life or sexual orientation), race or ethnic origin (or opinion on race or ethics origin);

- personal data relating to criminal convictions and offences

The provision of personal data is mandatory to meet a legal requirement under the Staff Regulations. If you do not provide your personal data, we will not be able to fulfil our obligations.

We have obtained your personal data from different sources available for the Authority's investigations.

The Agency adheres to the principles of data minimisation, necessity and proportionality regarding the personal data to be collected, the means and steps of the investigation.

The collection of personal data will be limited to what is directly and strictly relevant and necessary to the purpose of the inquiry and of the disciplinary proceeding.

5. How long do we keep your personal data?

The European Labour Authority only keeps your personal data for the time necessary to fulfil the purpose of collection or further processing, namely for:

Personal data contained in the preliminary assessment and have not triggered an administrative investigations: **2 years** from the date of the appointing authority's decision.

Personal data contained in an administrative investigation without disciplinary consequences: **5 years** from the date of the appointing authority's decision.

Personal data related to investigations with disciplinary consequences: **20 years** from the date of the appointing authority's decision.

Decisions/Penalties: from **3 years** for written warnings and reprimands and **6 years** for other penalties from the date of the appointing authority's decision. The penalties of written warning or reprimand adopted at the end of the disciplinary proceedings are placed in the personal file for a period of 3 years, the other penalties for a period of 6 years. The written warnings in the sense of the Article 3(1)(b) of the Staff Regulations and Article 26 of the ELA MB Decision 21/2022: 3 years. After 18 months, the concerned person can request this data to be removed from his/her personal file

6. How do we protect and safeguard your personal data?

All personal data in electronic format (e-mails, documents, databases, uploaded batches of data, etc.) are stored either on the servers of the European Labour Authority or of its contractors.

ELA's contractors are bound by a specific contractual clause for any processing operations of your data on behalf of ELA, and by the confidentiality obligations deriving directly from the General Data Protection Regulation in the EU Member States ('GDPR' [Regulation \(EU\) 2016/679](#).)

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

7. Who has access to your personal data and to whom is it disclosed?

Access to your personal data is provided to ELA staff responsible for carrying out this processing operation and to authorised staff according to the “need to know” principle. Such staff abide by statutory confidentiality obligations, or, when required, additional confidentiality agreements.

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

8. What are your rights and how can you exercise them?

You have specific rights as a ‘data subject’ under Chapter III (Articles 14-25) of Regulation (EU) 2018/1725, in particular the right to access, your personal data and to rectify them in case your personal data are inaccurate or incomplete. Where applicable, you have the right to erase your personal data, to restrict the processing of your personal data, to object to the processing, and the right to data portability.

You have the right to object to the processing of your personal data, which is lawfully carried out pursuant to Article 5(1)(a) on grounds relating to your particular situation.

You can exercise your rights by contacting the Data Controller, or in case of conflict the Data Protection Officer. If necessary, you can also address the European Data Protection Supervisor. Their contact information is given under Heading 9 below.

Where you wish to exercise your rights in the context of one or several specific processing operations, please provide their description (i.e. their Record reference(s) as specified under Heading 10 below) in your request.

The rights of the data subject can be exercised in accordance with the provisions of Regulation (EU) 2018/1725. The rights and obligations under Regulation (EU) 2018/1725 can be restricted if they would jeopardise the purpose of administrative inquiries, pre-disciplinary, disciplinary and suspension proceedings or would affect the rights and freedoms of other data subjects.

Please note that certain rights of data subjects involved in administrative inquiry or disciplinary proceedings may be restricted in accordance with the ELA Management Board Decision No 20/2022 of 24 November 2022 on internal rules concerning restrictions of certain data subject rights in relation to the processing of personal data in the framework of activities carried out by the European Labour Authority. The Agency will document the reasons for taking such decision to demonstrate that the restriction is proportionate and necessary in line with the provisions of Regulation 2018/1725.

9. Contact information

- The Data Controller

If you would like to exercise your rights under Regulation (EU) 2018/1725, or if you have comments, questions or concerns, or if you would like to submit a complaint regarding the collection and use of your personal data, please feel free to contact the Data Controller:

Cosmin.Boiangiu@ela.europa.eu

- The Data Protection Officer (DPO) of ELA

You may contact the Data Protection Officer (data-protection@ela.europa.eu) with regard to issues related to the processing of your personal data under Regulation (EU) 2018/1725.

- **The European Data Protection Supervisor (EDPS)**

You have the right to have recourse (i.e. you can lodge a complaint) to the European Data Protection Supervisor edps@edps.europa.eu if you consider that your rights under Regulation (EU) 2018/1725 have been infringed as a result of the processing of your personal data by the Data Controller.

10. Where to find more detailed information?

ELA Data Protection Officer (DPO) publishes the register of all processing operations on personal data by ELA, which have been documented and notified to him. You may access the register via the following link: <https://www.ela.europa.eu/en/privacy-policy>

This specific processing operation has been included in the DPO's public register with the following Record reference: DPR-ELA-2022-0036 ELA process on administrative inquires and disciplinary procedures.