



**European Labour Authority**

DATA PROTECTION OFFICER

**RECORD OF PROCESSING OPERATIONS ON PERSONAL DATA**

DPR-ELA-2022-0029 Processing personal data at ELA concerted and joint inspections

**1 PART 1: PUBLIC - RECORD (ARTICLE 31<sup>1</sup>)**

**1.1 GENERAL INFORMATION**

<b>Record reference</b>	DPR-ELA-2022-0029
<b>Title of the processing operation</b>	Processing of personal data at ELA concerted and joint inspections
<b>Controller entity</b>	European Labour Authority, Enforcement and Analysis Unit, Inspection Team
<b>Joint controllers</b>	<input checked="" type="checkbox"/> N/A <input type="checkbox"/> YES, fill in details below
<b>Joint controllership arrangement (Article 28(1))</b>	<input type="checkbox"/> Link: <input type="checkbox"/> Attachment
<b>Processor(s)</b>	<input type="checkbox"/> N/A <input checked="" type="checkbox"/> YES, fill in details below
<b>Internal organisation(s)/entity(ies) Names and contact details</b>	<input checked="" type="checkbox"/> N/A <input type="checkbox"/> YES
<b>External organisation(s)/entity(ies) Names and contact details</b>	<input type="checkbox"/> N/A <input checked="" type="checkbox"/> YES  Microsoft Ireland South County Business Park, One Microsoft Place, Carmanhall and Leopardstown, Dublin, D18 P521, Ireland  <b>For administrative tasks and logistics:</b>  <u>Local transportation, interpretation, catering for « on-site » labour inspection visits, online/ in person meetings:</u> <b>PROPAGER – NEWS TRAVEL</b> 70, Boulevard de Reuilly 75012 Paris, France  <u>Travel and accommodation:</u> <b>TRAVEX</b> Travex S.A. – Parvis de la Trinité, 8 – 1050 Brussels (Belgium)  <u>Translation of documents:</u> <b>Translation Centre for the Bodies of the European Union</b> Bâtiment Technopolis Gasperich 12E, rue Guillaume Kroll L-1882 Luxemburg  <u>Internal CJJ management System (case management system):</u> <b>Uni system</b> 19-23, Al. Pantou str. 176 71 Athens, Greece  <u>Consultancy services</u> <b>SPARK legal network (EU) BVBA</b>

<sup>1</sup> Pursuant to **article 31** of the new data protection regulation for EU institutions and bodies (**Regulation (EU) 2018/1725**) each controller and processor have to maintain a **record of processing activities** under its responsibility that contains at least the information listed under that article.

	<p>Rue des Deux Eglises 39 1000 Brussels Belgium</p> <p>Such processors are bound by contracts defining the terms of service, including personal data protection clauses indicating their responsibilities as provided by Regulation (EU) 2018/1725.</p>
<p><b>Data Protection Officer</b> Name and contact details</p>	<p>Laura NUNEZ BAREZ Landererova 12, 811 09 Bratislava I Slovakia Email: data-protection@ela.europa.eu</p>
<p><b>Language of the record</b></p>	<p>English</p>
<p><b>Record Model</b></p>	<p><input checked="" type="checkbox"/> N/A</p>

## 1.2 PURPOSE AND DESCRIPTION OF THE PROCESSING

### 1.2.1 Purpose

The objective of the European Labour Authority (ELA), as set out in Article 2 of the ELA Regulation (Regulation (EU) 2019/1149 of the European Parliament and of the Council of 20 June 2019), is to contribute to ensuring fair labour mobility across the Union. To this end, ELA shall facilitate and enhance cooperation between the Member States in the enforcement of relevant Union law, including facilitating concerted and joint inspections.

According to Article 8 of ELA Regulation, the European Labour Authority shall coordinate and support concerted or joint inspections in the area of labour mobility across the Union.

This record aims to cover the personal data collected during the organization and performance of the concerted<sup>1</sup> and joint inspections<sup>2</sup> (CJI) coordinated by ELA.

In Article 8 ELA Regulation and the [guidelines for concerted and joint inspection](#), three scenarios are observed:

1. Inspections initiated after a request of one or more Member States
2. Inspections suggested to the authorities of Member States by own initiative of the Authority
3. Cases brought to the attention of the Authority, by social partners organisations at national level

The processing also includes follow-up activities (such as [report](#) or studies) related to the findings and requests for annual or ad-hoc information from Member States and ELA Management Board.

As part of this process, a [written agreement](#) on cross-border concerted and joint inspections is signed between the authorities involved in the inspection.

An inspection plan can be drafted and signed by the authorities involved in the inspection.

Concerted and joint inspections shall be carried out in accordance with the legal framework and practice of the Member States in which the inspections take place. Any follow-up to such inspections shall be carried out in accordance with the legal framework and practice of the Member States concerned.

*When presenting a case for a concerted and/or joint inspection, and specifically when submitting any document, Member States authorities shall ensure that all personal data related to that case are removed or anonymised in such a manner that the data subject is not or no longer identifiable.*

*The Authority does not process any personal data of individuals concerned by the case at any point in the course of its inspections. If for any reason, any personal data is transmitted to the Authority, it will be deleted as soon as it is detected. In this case, the Authority will inform the authority that submitted personal data about the irregular transmission and request an anonymised/redacted version of the relevant documents.*

### 1.2.2 Processing for further purposes

- Archiving in the public interest
  - Scientific or historical research purposes
  - Statistical purposes
- Safeguards in place to ensure data minimisation
- Pseudonymisation

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<sup>1</sup> **Concerted inspections:** Cross-border concerted inspections concerted inspections are inspections carried out simultaneously in two or more MS regarding related cases, with each national authority operating in its own territory, and supported, where appropriate, by the staff of the Authority.

<sup>2</sup> **Joint cross-border inspections:** are inspections carried out in MS with the participation of the national authorities of one or more other MS, and supported, where appropriate, by the staff of the Authority.

Any other, specify

Pseudonymisation will be encouraged, as reasonable as possible, when receiving Case description and/ or other information from the Member States.

Personal data related to the participants will be anonymized as soon as possible.

### 1.2.3 Modes of processing

1.  Automated processing (Article 24)
  - a.  Computer/machine
    - i.  automated individual decision-making , including profiling
    - ii.  Online form/feedback
    - iii.  Any other, specify
2.  Manual processing
  - a.  Word documents
  - b.  Excel sheet
  - c.  Any other, specify  
Pdf files, powerpoint presentations, handmade notes, pictures.
3.  Any other mode, specify

### Description

Any information related to a specific inspection when needed, such as maps, croquis, specific documentation according to the relevant national legislation, accounting data, audiovisual recordings, registry information related to the company, reports, relevant samples to the inspection (e.g. chemical, biological, water, or any other).

### Mobile applications in ELA corporate mobile duty phones/ tablets:

- Mobile application for ELA Staff: This process is covered by Record '*DPR-ELA-2022-0032 ELA Sharepoint Spaces*'.
- Exchange communication with staff from the Member States involved in CJI: in order to improve communication with **external staff** of Member States involved in CJIs, ELA may propose the use of specific secured tools/application. This process is covered by Record '*DPR-ELA-2023-0018 Pilot communication in the Concerted and Joint Inspections*'.

### 1.2.4 Storage medium

1.  Paper
2.  Electronic
  - a.  Digital (MS documents (Word, excel, Powerpoint), Adobe pdf, Audiovisual/multimedia assets, Image files (.JPEG, .PNG, etc.))
  - b.  Databases
  - c.  Servers
  - d.  Cloud
3.  External contractor premises

### 1.2.5 Comments on the processing of the data

The following steps will be followed for a successful CJI:

- a) Planning concerted and joint inspection: identification and specification of a case that requires a cross-border cooperation and ends with a final agreement on cross-border CJI. This agreement may include the Inspection Plan where the specificities of the inspection are included.
- b) Implementing CJI (case execution): description the on-site stages of CJI. All participants involved of CJI will follow instructions included in the agreement and/or the Inspection Plan. This phase concludes with the Post Inspection Report.

c) Following up CJ: during this phase any needed follow actions are implemented.

### 1.3 DATA SUBJECTS AND DATA CATEGORIES

#### 1.3.1 Data subjects' categories

1. Internal to organisation	ELA Staff
2. External to organisation	Staff from Member States, the European Economic Area (EEA) <sup>1</sup> and Switzerland administrations (national enforcement bodies) Staff from Social Partner Organisations at national level potentially involved in the case Employers European Institutions, bodies and agencies such as EUROPOL (included EMPACT), EUROJUST or CEDEFOP Relevant European networks related to the activities to ELA such as SLIC Senior Labour Inspectors Committee or AQUAPOL or ROADPOL ELA contractors/ interpreters/translation service Interpreters and/or cultural mediators External contractors and other service providers

#### 1.3.2 Data categories/fields

##### Description:

The categories/types of personal data processed are the following:

Personal data on the written agreement on cross-border concerted and joint inspections (administrative data):

Name, role/position, organization, phone number, email, information related to the specific inspection [format (*concerted general inspection, concerted targeted inspection, joint general inspection, joint targeted inspection*), time-frame, scope (*short and long terms targets*), inspection plan, time address of specific meetings, signatures].

Personal data related to the inspectors (acting inspectors from host MS and observing visiting officials from other Member States and general coordinator of the inspection<sup>2</sup>)

Name, role/function, organization, phone number, e-mail, composition of the team, general coordinator of the inspection and country.

Handwritten notes of visual observations during the inspection, pictures/video and report.

When the **CJ is initiated by request of one or more Member States**, they should provide the relevant background on the case that includes a general description of the initial complaint and/or relevant information gathered and the Member States where the infringement occurred, employers concerned and previous measures to address the case, motivation of the request, identification of the relevant national or European legislation ([Case description](#)). This information is exchanged with the ELA.

The Member State will also inform ELA of the sector/entity to be inspected, other stakeholders and number of participating persons, number of companies and number and categories of mobile workers concerned by the inspection (aggregated data).

When the **CJ is brought to the attention of ELA by relevant social partners at national level<sup>3</sup>**, they should provide case-relevant data, specifying the previous attempts to address the issue and the relevant national authorities involved.

<sup>1</sup> The EEA includes EU countries and also Iceland, Liechtenstein and Norway.

<sup>2</sup> The general coordinator of a CJ will be in charge of organizational and procedural matters, including drafting reports. The appointed person should be, in principle, one of the National Coordinators or ELA responsible officer.

<sup>3</sup> Social Partner organisations at national level (employer associations and trade unions).

Personal data of interpreters, as well as assimilated support staff (interpreters, cultural mediators):

Name, surname, languages spoken (interpretation working languages), nationality, ID cards/passports, flight and travel details and accommodation details for reimbursement.

Personal data of ELA Staff (case handlers, other ELA staff, including ELA National Liaison Officers (ELA NLO)

Name, Surname, Unit, position (CA, SNE, SNE-NLO) and contributions to reports from MS and final post inspection report and signature.

Personal data of observers/other stakeholders (such as the representatives of social partner organisations at national level, other European Institutions, bodies and agencies or relevant European networks related to the activities to ELA such as SLIC Senior Labour Inspectors Committee or AQUAPOL or ROADPOL):

Name, Surname, Role, Organisation represented and any other personal data needed to organize meetings or events.

For the reimbursement of participants of CJIs (such as interpreters, observers, inspectors in some cases) the following data will be collected:

Name, Surname, nationality, ID cards/passports, flight and travel details and accommodation details for reimbursement. Reimbursement will be dealt following the process described in the Record “DPR-ELA-2022-0003 Managing award procedures for procurement and the execution of contracts”

#### 1.3.2.1 Special categories of personal data

Indicate if the processing operation concerns any ‘special categories of data’ which fall(s) under Article 10(1), which shall be prohibited unless any of the reasons under article 10(2) applies:

Yes , the processing concerns the following special category(ies):

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.

#### Description:

Representatives of social partner organizations at national level (employer associations and trade unions).

As part of the mandate and activities of ELA, Social partner organisations at national level can bring to the attention of the Authority specific cases subject to a CJi.

If applicable, indicate the reasons under article 10(2) allowing the processing of the special categories of data:

- (a)  The data subject has given explicit consent to the processing of those personal data for one or more specified purposes, [...].
- (b)  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[...].

- (c)  Processing is necessary to protect the vital interests of the data subject or of another person where the data subject is physically or legally incapable of giving consent.
- (d)  Processing is carried out in the course of its legitimate activities with appropriate safeguards by a non-profit-seeking body which constitutes an entity integrated in a Union institution or body and with a political, philosophical, religious or trade-union aim [...].
- (e)  Processing relates to personal data which are manifestly made public by the data subject.
- (f)  Processing is necessary for the establishment, exercise or defense of legal claims or whenever the Court of Justice of the European Union is acting in its judicial capacity.
- (g)  Processing is necessary for reasons of substantial public interest, [...]
- (h)  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 [...].
- (i)  Processing is necessary for reasons of public interest in the area of public health, such as protecting against serious cross-border threats to health or ensuring high standards of quality and safety of health care and of medicinal products or medical devices [...].
- (j)  Processing is necessary for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes [...].

**1.3.2.2 Data related to 'criminal convictions and offences'**

<b>The data being processed contain sensitive data which fall(s) under Article 11 'criminal convictions and offences'</b>	<b>N/A</b> <input checked="" type="checkbox"/> <b>Yes</b> <input type="checkbox"/>
<b>Description:</b>	

**1.4 RETENTION PERIOD**

Indicate the administrative time limit(s) for keeping the personal data per data category, and if known, specify the start/end date, or describe the specific start/end moment of each time limit:

<b>Data category</b>	<b>Retention period</b>
Identification data of participants of CJIs	Maximum 5 years
Personal data related to the interpreters, cultural mediators and other possible stakeholders	2 years after the post inspection report is submitted by MS.
Personal data of signatories of the Agreements on CJIs (including inspection plan)	Personal data related to the administrative data will be kept for historical and archival purposes.

**Description**

Following ELA.4.2 > Enforcement and analysis > Files related to inspections, carried out in accordance with Articles 8-9 of Regulation 2019/1149 will be kept for a maximum of 5 years. After that period of time, the personal data will be anonymized and kept for historical purposes.

The agreement on CJIs is signed for a specific intervention/inspection. In the frame of this agreement several actions may be done during a certain period of time; actions are concluded with a post inspection report.



**1.5 RECIPIENTS**

Origin of the recipients of the data	
1. <input checked="" type="checkbox"/> Within the EU organization	Authorised Staff in ELA Enforcement and Analysis Unit and NLOs Executive Director Finance Sector (reimbursement purposes)
2. <input checked="" type="checkbox"/> Outside the EU organization	Authorised Staff/enforcement authorities in Member States involved in the particular inspection

Categories of the data recipients	
1. <input checked="" type="checkbox"/> A natural or legal person	
2. <input checked="" type="checkbox"/> Public authority	
3. <input checked="" type="checkbox"/> Agency	
4. <input type="checkbox"/> Any other third party, specify	

**Description**

Responsible staff members in ELA, authorities of Member States concerned will have access to all data categories related to the inspection they are involved in. They will also have access to all data in cases the inspection is limited to the exchange of information related to the case as an “on-site inspection visit” is not performed.

Regarding the cases brought by social partner organisations at national level, also the social partner organization will receive general information, but only pseudonymized data.

The transfer of personal data will be managed directly by the actors involved (Member States authorities/social partner organisations at national level) and ELA will not further transfer any additional personal information.

Anonymized statistics and reports are prepared by ELA for historical and archival purposes. These reports may be shared with the European Commission, European Parliament, and with the ELA Partner Agencies<sup>1</sup>, as well as other stakeholders.

**1.6 INTERNATIONAL DATA TRANSFERS**

Transfer to third countries or international organisations of personal data	
<b>1. Transfer outside of the EU or EEA</b>	
<input type="checkbox"/> N/A, transfers do not occur and are not planned to occur	
<input checked="" type="checkbox"/> YES,	
Country(ies) to which the data is transferred	Switzerland
<b>2. Transfer to international organisation(s)</b>	
<input checked="" type="checkbox"/> N/A, transfers do not occur and are not planned to occur	
<input type="checkbox"/> Yes, specify further details about the transfer below	

<sup>1</sup> According to ELA Regulation: The European Foundation for the Improvement of Living and Working Conditions (**EUROFOUND**), the European Centre for the Development of Vocational Training (**CEDEFOP**), the European Agency for Safety and Health at Work (**EU-OSHA**), and the European Training Foundation (**ETF**), as well as, as regards the fight against organised crime and trafficking in human beings, with the European Union Agency for Law Enforcement Cooperation (**EUROPOL**) and European Union Agency for Criminal Justice Cooperation (**EUROJUST**).

Names of the international organisations to which the data is transferred	
<p><b>3. Legal base for the data transfer</b></p> <p><input checked="" type="checkbox"/> Transfer on the basis of the European Commission's <b>adequacy decision</b> (<i>Article 47</i>)</p> <p><input type="checkbox"/> Transfer subject to <b>appropriate safeguards</b> (<i>Article 48.2 and .3</i>), specify:</p> <p>2. (a) <input type="checkbox"/> A legally binding and enforceable instrument between public authorities or bodies.</p> <p>Standard data protection clauses, adopted by</p> <p>(b) <input type="checkbox"/> the Commission, or</p> <p>(c) <input type="checkbox"/> the European Data Protection Supervisor and approved by the Commission, pursuant to the examination procedure referred to in Article 96(2) .</p> <p>(d) <input type="checkbox"/> Binding corporate rules, <input type="checkbox"/> Codes of conduct , <input type="checkbox"/> Certification mechanism pursuant to points (b), (e) and (f) of Article 46(2) of Regulation (EU) 2016/679, where the processor is not a Union institution or body.</p> <p>3. Subject to the authorisation from the European Data Protection Supervisor:</p> <p><input type="checkbox"/> Contractual clauses between the controller or processor and the controller, processor or the recipient of the personal data in the third country or international organisation.</p> <p><input type="checkbox"/> Administrative arrangements between public authorities or bodies which include enforceable and effective data subject rights.</p> <p><input type="checkbox"/> Transfer based on an <b>international agreement</b> (<i>Article 49</i>), specify</p>	
<p><b>4. Derogations for specific situations</b> (Article 50.1 (a) –(g))</p> <p><input checked="" type="checkbox"/> N /A</p> <p><input type="checkbox"/> Yes, derogation(s) for specific situations in accordance with article 50.1 (a) –(g) apply (ies).</p>	

The European Commission has recognised Switzerland as providing adequate protection. Please see: [Commission Decision of 26 July 2000 pursuant to Directive 95/46/EC of the European Parliament and of the Council on the adequate protection of personal data provided in Switzerland.](#)

General Data Protection Regulation applies to EEA countries.

**1.7 INFORMATION TO DATA SUBJECTS ON THEIR RIGHTS**

<b>Rights of the data subjects</b>
<i>Article 17 – Right of access by the data subject</i>
<i>Article 18 – Right to rectification</i>
<i>Article 19 – Right to erasure (right to be forgotten)</i>
<i>Article 20 – Right to restriction of processing</i>
<i>Article 21 – Notification obligation regarding rectification or erasure of personal data or restriction of processing</i>
<i>Article 22 – Right to data portability</i>
<i>Article 23 – Right to object</i>
<i>Article 24 – Rights related to Automated individual decision-making, including profiling</i>

**1.7.1 Privacy statement**

The data subjects are informed about their rights and how to exercise them in the form of the a privacy statement attached to this record.

### Publication of the privacy statement

Published on website

Web location:

- ELA internal website  (URL: SharePoint on Personal Data Protection )
- External website  (URL: <https://www.ela.europa.eu/en/privacy-policy> )

Other form of publication, specify

A specific Privacy Statement will be published on the ELA main website.

Guidance for Data subjects which explains how and where to consult the privacy statement is available and will be provided at the beginning of the processing operation.

#### Description:

Guide on data subject's rights is available on ELA main website.

## 1.8 SECURITY MEASURES

Short summary of overall Technical and Organizational Measures implemented to ensure Information Security:

#### Description:

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

The European Labour Authority's contractors are bound by a specific contractual clause for any processing operations of personal data on behalf of the European Labour Authority, and by the confidentiality obligations deriving from the General Data Protection Regulation.

In order to protect personal data, the European Labour Authority has put in place a number of technical and organisational measures. 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.