



European Labour Authority

DATA PROTECTION OFFICER

RECORD OF PROCESSING OPERATIONS ON PERSONAL DATA

DPR-ELA-2023-0012 Processing of complaints and requests under Article 90 of the Staff Regulation

1 PART 1: PUBLIC - RECORD (ARTICLE 31¹)**1.1 GENERAL INFORMATION**

Record reference	DPR-ELA-2023-0012
Title of the processing operation	Processing of complaints and requests under Article 90 of the Staff Regulations
Controller entity	European Labour Authority, Legal & Compliance Sector (Head of the Legal & Compliance Sector)
Joint controllers	<input checked="" type="checkbox"/> N/A <input type="checkbox"/> YES, fill in details below
Processor(s)	<input type="checkbox"/> N/A <input checked="" type="checkbox"/> YES, fill in details below
Internal organisation(s)/entity(ies) Names and contact details	<input checked="" type="checkbox"/> N/A <input type="checkbox"/> YES
External organisation(s)/entity(ies) Names and contact details	<input type="checkbox"/> N/A <input checked="" type="checkbox"/> YES The European Commission, Human Resources and Security (DG HR) 1049 Brussel, Belgium Microsoft Ireland South County Business Park, One Microsoft Place, Carmanhall and Leopardstown, Dublin, D18 P521, Ireland 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.
Data Protection Officer Name and contact details	Daniela QATAM BENETIN European Labour Authority Landererova 12, 811 09 Bratislava I Slovakia Email: data-protection@ela.europa.eu
Corporate Record	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Language of the record	English

¹ 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.

1.2 PURPOSE AND DESCRIPTION OF THE PROCESSING

1.2.1 Purpose

The purpose of the data processing is to handle requests under Article 90(1) and complaints under Article 90(2) of the Staff Regulations. More specifically, the processing consists of analysing the complaint or request and other supporting documents in order to establish the facts on which the decision of the Appointing Authority will be based, making a legal assessment of those facts, and preparing the decision to be adopted by the Appointing Authority in response to the complaint/request.

The processing is in line with the Standard Operating Procedure for submitting and managing Article 90 requests and complaints at ELA (SOP n.18).

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
- Any other, specify
Anonymisation

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
Encrypted e-mails
2. Manual processing
 - a. Word documents
 - b. Excel sheet
 - c. Any other, specify
Encrypted word and pdfs will be handled.
3. Any other mode, specify

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
4. Others, specify

Description:

1.2.5 Comments on the processing of the data

Article 90(1) REQUEST:

The data subject may submit a request at any time. However, a request concerning the same matter as an earlier request or complaint which has received no reply or a negative reply may not reopen the period for the submission of a complaint allowed by Article 90(2) of the Staff Regulations.

The request, to be submitted together with the cover form, must state:

- the identity of the person concerned;
- its purpose and the reasons why it is being made;
- the place, date and signature.
- Any relevant document should be attached

Decision

A reasoned decision should be adopted by the appropriate authority within four months of the date on which the request is made. This decision is sent to the person concerned, with no particular formality, by the relevant department.

If the request is rejected, the data subject may lodge a complaint within three months from the date of notification of the decision.

Failure to reply to a request within the period of four months given to the appropriate authority to adopt its decision means that the request has been implicitly rejected. A complaint against such a decision may also be lodged within three months of the implicit rejection.

A late reply by the authority (after the four-month period) does not reopen the three-month period available for lodging a complaint.

Article 90(2): COMPLAINTS

A complaint must be lodged within **three months**. This period starts:

- on the date of publication of the act if it is a measure of a general nature;
- on the date of notification of the decision to the person concerned and in any event no later than the day when they become aware of it if it is a measure of an individual nature; however, if an act of an individual nature is such as to be prejudicial to a person other than the person directly concerned, that period shall begin to run with regard to that person from the day when he or she becomes aware of it and in any event no later than the date of publication;
- on the date of expiry of the period prescribed for the reply where the complaint is against an implied decision rejecting a request.

In the case of SNE, the complaint must be lodged within three months. The period starts to run on the date of notification of the decision to the person concerned, but in no case later than the date on which the latter received such notification (Article 24 of Decision No 07/2024 of ELA Management Board on SNE Rules).

Complaints lodged out of time are inadmissible.

Acts which contain no points not already made in a previous decision are purely confirmatory and do not have the effect of providing the member of staff with further time.

The request, to be submitted together with the cover form, must state:

- the identity of the complainant;
- its purpose and the grounds and arguments on which it is based;
- the disputed act;
- the place, date and signature.

- Any relevant document should be attached.

Decision

Staff on a need-to-know basis from the HR Sector will collect any information relevant to treating the matter from the departments which took or are affected by the decision being challenged.

Decision and deadlines

Within a week of receiving the request/complaint, the Head of the Legal and Compliance Sector shall decide whether to refer it to DG HR (European Commission) for treatment under the corresponding service level agreement or to the legal team for in-house handling. Pursuant to Article 5 of the service level agreement, ELA will notify DG HR (European Commission) that coordination in relation to Article 90 requests/complaints is done by ELA legal team, who is the contact point on those matters.

FOR BOTH: REQUEST AND COMPLAINTS

Submission of the request/complaint:

One single copy of the request/complaint should be sent to the Executive Director functional mailbox (executive-director@ela.europa.eu) by e-mail, preferably in PDF format (this mailbox accepts encrypted emails). It is not necessary to submit a paper version in parallel but if you do not wish to use e-mail, you can send your complaint to the office address:

A/A Executive Director
The European Labour Authority
Landererova 12,
81108 Bratislava

Registration date stamp will be taken as proof of the date the request/complaint was submitted. In the case of requests/complaint submitted by e-mail, the date of registration will be the date on which it is sent or the first working day following that date if it is a holiday.

Treatment

Upon receiving a request/complaint under Article 90, the ED Secretariat forwards it to the legal team (legal@ela.europa.eu), with the Head of the HR Sector copied.

Any further handling of the requests/complaint will be restricted to the team member(s) in the ED Secretariat, legal team and HR Sector as assigned by the Head of the Legal and Compliance Sector and the Head of the HR Sector, on a strict need-to-know-basis.

The ED secretariat shall register all incoming requests/complaints in Ares and maintain an up-to-date registry of Article 90 requests.

The registry shall contain the following information for each complaint:

- A registration number (e.g., R-1/24, R-2/24, D-1/24, D-2/24, etc.);
- Information about the subject matter;
- The legal team member responsible for handling the case and ensuring deadlines are met;
- The date of receipt and the deadline for reply.

Upon receiving a request/complaint, the ED secretariat shall send an acknowledgment of receipt from the ED functional mailbox indicating receipt and timeframe for reply.

Within a week of receiving the request/complaint, the Head of the Legal and Compliance Sector shall decide whether to refer it to DG HR (European Commission) for treatment under the corresponding service level agreement or to the legal team for in-house handling. Pursuant to Article 5 of the service level agreement, ELA will notify DG HR (European Commission) that coordination in relation to Article 90 requests/complaints is done by ELA legal team, who is the contact point on those matters.

The HR Sector shall provide the necessary information.

1.3 DATA SUBJECTS AND DATA CATEGORIES

1.3.1 Data subjects' categories

1. Internal to organisation	<input checked="" type="checkbox"/> Yes Data subjects Any person covered by the Staff Regulation. ELA Staff means statutory staff (officials, temporary agents and contract agents) and SNEs (including NLOs)
2. External to organisation	<input checked="" type="checkbox"/> Yes General public

1.3.2 Data categories/fields

The personal data collected and further processed are:

- data provided by the person concerned (you are not obliged to reply to questions as regards to personal data relevant to the complaint/request);
- data provided by the service concerned (i.e. service responsible for the contested decision) or other relevant service(s) (i.e. those services having information relevant for the analysis of the complaint/request);
- data stored in data bases accessible to the Legal & Compliance Sector and to the HR Sector.

In some cases, depending on the subject matter of the complaint/request, medical data or data related to disciplinary matters might be processed.

The members of the Legal & Compliance Sector, and the HR Sector, responsible for handling the case has, for the sole purpose of assessing the complaint/request, temporary access to the personal file of the data subject.

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:

Only if needed to clarify the object, scope and context of the request/complaint.

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 [...].

Additional information

1.3.2.2 Data related to 'criminal convictions and offences'

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

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:

Data category	Retention period
Paper copy	<i>5 years</i>
Electronic version	<i>15 years</i>

Description

The data is kept for a period of 15 years, and it is then sent to the Historical Archives and kept there permanently.

The above-mentioned retention periods are justified by the need to consult and compare previous

cases handled by the Legal & Compliance Sector, in order to ensure the uniform and equal application of the Staff Regulation.

1.5 RECIPIENTS

Origin of the recipients of the data	
1. <input checked="" type="checkbox"/> Within the EU organization	Legal & Compliance Sector ELA HR Sector Executive Director, as Appointing Authority Staff from other services that may have information on the case
2. <input checked="" type="checkbox"/> Outside the EU organization	European Commission, DG HR (Appeals and Case Monitoring Unit) Courts, legal advisers or other competent bodies in the context of judicial or administrative proceedings.

Categories of the data recipients
1. <input type="checkbox"/> A natural or legal person 2. <input type="checkbox"/> Public authority 3. <input type="checkbox"/> Agency 4. <input type="checkbox"/> Any other third party, specify Specify who has access to which parts of the data: Access to personal data is limited to authorised staff on a strict need-to-know basis, in line with the roles defines in SOP no. 18. Courts, legal advisers or other competent bodies in the context of judicial or administrative proceedings.

Description

Upon receiving a request/complaint under Article 90, the ED Secretariat forwards it to the legal team, with the Head of the HR Sector copied.

Any further handling of the requests/complaint will be restricted to the team member(s) in the ED Secretariat, legal team and HR Sector as assigned by the Head of the Legal and Compliance Sector and the Head of the HR Sector, on a strict need-to-know-basis.

The Head of the Legal and Compliance Sector shall decide whether to refer the request/complaint to DG HR (European Commission) for treatment under the corresponding service level agreement or to the legal team for in-house handling. Pursuant to Article 5 of the service level agreement, ELA will notify DG HR (European Commission) that coordination in relation to Article 90 requests/complaints is done by ELA legal team, who is the contact point on those matters.

1.6 INTERNATIONAL DATA TRANSFERS

Transfer to third countries or international organisations of personal data	
1. Transfer outside of the EU or EEA	
<input checked="" type="checkbox"/> N/A, transfers do not occur and are not planned to occur <input type="checkbox"/> YES,	
Country(ies) to which the data is transferred	
2. Transfer to international organisation(s)	
<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	
Names of the international organisations to which the data is transferred	
3. Legal base for the data transfer	
<input type="checkbox"/> Transfer on the basis of the European Commission's adequacy decision (<i>Article 47</i>) <input type="checkbox"/> Transfer subject to appropriate safeguards (<i>Article 48.2 and .3</i>), specify:	
2. (a) <input type="checkbox"/> A legally binding and enforceable instrument between public authorities or bodies. Standard data protection clauses, adopted by (b) <input type="checkbox"/> the Commission, or (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). (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.	
3. Subject to the authorisation from the European Data Protection Supervisor:	
<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. <input type="checkbox"/> Administrative arrangements between public authorities or bodies which include enforceable and effective data subject rights.	
<input type="checkbox"/> Transfer based on an international agreement (<i>Article 49</i>), specify	
4. Derogations for specific situations (<i>Article 50.1 (a) –(g)</i>)	
<input checked="" type="checkbox"/> N /A <input type="checkbox"/> Yes, derogation(s) for specific situations in accordance with article 50.1 (a) –(g) apply (ies).	
In the absence of an adequacy decision, or of appropriate safeguards, transfer of personal data to a third country or an international organisation is based on the following condition(s):	
(a) <input type="checkbox"/> The data subject has explicitly consented to the proposed transfer, after having been informed of the possible risks of such transfers for the data subject due to the absence of an adequacy decision and appropriate safeguards (b) <input type="checkbox"/> The transfer is necessary for the performance of a contract between the data subject and the controller or the implementation of pre-contractual measures taken at the data subject's request (c) <input type="checkbox"/> The transfer is necessary for the conclusion or performance of a contract concluded in the interest of the data subject between the controller and another natural or legal person (d) <input type="checkbox"/> The transfer is necessary for important reasons of public interest (e) <input type="checkbox"/> The transfer is necessary for the establishment, exercise or defense of legal claims	

- (f) The transfer is necessary in order to protect the vital interests of the data subject or of other persons, where the data subject is physically or legally incapable of giving consent
- (g) The transfer is made from a register which, according to Union law, is intended to provide information to the public and which is open to consultation either by the public in general or by any person who can demonstrate a legitimate interest, but only to the extent that the conditions laid down in Union law for consultation are fulfilled in the particular case

1.7 INFORMATION TO DATA SUBJECTS ON THEIR RIGHTS

Rights of the data subjects
<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

Guidance on data subjects' rights available on 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:

The data subjects may contact the controller in order to exercise their data protection rights. Requests under Regulation (EU) 2018/1725 are handled separately, in line with ELA's SOP n. 7/2023 for 'Handling data subjects requests.

Nevertheless, according to the applicable decision, some rights (mainly the right of access and the right of rectification) may be subject to restrictions for this specific process.

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.

In accordance with Management Board Decision 4/2024 on Security Rules for handling Sensitive Non-Classified Information (SNC), personal data processed in the context of Article 90 requests and complaints are classified as Sensitive Non-Classified information and handled and stored accordingly, in particular when shared with other Union institutions and bodies.

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.

In particular, sensitive personal data, including special categories of data within the meaning of Articles 10 and 11 of Regulation (EU) 2018/1725, are subject to enhanced security measures, including double encryption, in accordance with the applicable internal security rules.