

<b>01 - Name of processing</b>	<b>Administrative inquiries and disciplinary proceedings at the ERA</b>
02 - Reference	49
03 - Submission Date	20-07-12
04 - Last update	09-09-21
05a - Controller	RICOTTA Salvatore
05b - Unit-Sector	Human Resources
05c - Controller's email	HoUResourcesandSupport@era.europa.eu
06 - DPO	DataProtectionOfficer@era.europa.eu 120 Rue Marc Lefrancq, 59300 Valenciennes, France Tel.+33 (0) 32 70 96 500
07 - Name and contact details of joint controller (where applicable)	
08a - Who is actually conducting the processing? (Article 31.1(a))	The data is processed by ERA (responsible unit) itself
08b - Name and contact details of processor (where applicable)	N/A
09 - Purpose of processing	To establish the facts of each case and, where necessary, to determine whether there has been a failure to comply with the obligations incumbent on the ERA staff members.
10a - Data Subjects	The data processing involves the following persons:a) Statutory staff members; b) Individuals who participate in an inquiry and disciplinary proceedings in a role other than that of the accused staff member, including witnesses, "whistleblowers" and others.

## 10b - Personal data

In the course of conducting administrative inquiries and disciplinary proceedings, as well as to the disciplinary reports, the personal data collected and processed is restricted to the necessary and proportionate for the purpose of establishing the facts. The data undergoing processing are as follows: a) surname, first name, personnel number, grade/step, b) data relating to status under the Staff Regulations and Conditions of employment of other servants, c) data relating to the conduct, action or inaction of persons under investigation and/or subject to disciplinary proceedings, d) data relating to the legal definition of such action or inaction with regard to the Staff Regulations and to other obligations by which the persons in question are bound, e) data relating to the individual responsibility of the persons concerned, including financial liability, f) data relating to penalties imposed on the persons concerned, if required.

Special categories of data: Processing of personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, trade-union membership, and of data concerning health or sex life cannot be processed unless it is necessary for the purposes of complying with the specific rights and obligations of the ERA in the field of employment law or if absolutely necessary for conducting the investigation at stake.

Processing of data relating to offences or criminal convictions may be subject to authorization in accordance with Article 10(5) of the Data Protection Regulation. The decisions implementing Article 86 of the Staff Regulations and, by analogy, Articles 49 to 51 and 119 of the CEOS should be regarded as an authorization to process these data.

The ERA Data Protection Officer is consulted before any processing referred to supra.

Subject to the provision of appropriate safeguards, and for reasons of substantial public interest, exemptions in addition to those laid down in paragraph 1 may be laid down by the Treaty on European Union and the Treaty on the Functioning of the European Union or other legal instruments adopted on the basis thereof or, if necessary, by decision of the European Data Protection Supervisor.

Traffic data: Processing of data relating to offences, criminal convictions or security measures may be carried out only if authorised by the Treaty on European Union and the Treaty on the Functioning of the European Union or other legal instruments adopted on the basis thereof or, if necessary, by the European Data Protection Supervisor, subject to appropriate specific safeguards. Processing of personal data relating to Internet connections and the use of e-mail or the telephone in the course of administrative inquiries and disciplinary proceedings may be carried out by the ERA. These data shall be erased or made anonymous as soon as possible and no later than six months after collection, unless they need to be kept for a longer period to establish, exercise or defend a right in a legal claim pending before a court.

If, in the course of administrative inquiries or disciplinary proceedings, the need arises to gain access to electronic communications, the restriction of the confidentiality principle must be in accordance with the general principles of European Union law.

These restrictions can be allowed only in exceptional circumstances where no other less invasive method could be used and after the DPO is consulted on this matter. Such restrictions may take place only if it is in accordance with Article 20 of the Data Protection Regulation.

11 - Time limit for keeping the data

a) Files which have led to the opening of disciplinary procedure will be stored for a period of 20 years starting from the date of the Executive Director's decision concluding the procedure;

b) Files where the Executive Director decides that no case can be made against the staff member or where a warning is issued will be stored for a period of 5 years. Files and all related information may be deleted upon request by the staff member after a period of:- Eighteen months in the case of a warning;- Three years in the case of the penalty of a written warning or reprimand;- Six years in the case of another penalty. The decision to grant the request is taken by the Executive Director. If the Executive Director denies the request, his decision must be duly justified.

12 - Recipients of the data

The Executive Director, the Head of the Administration unit, the designated staff member in the HR sector. If one of the above mentioned is directly involved in the case, a substitute will be appointed.

Personal data may in the course of an investigation be transmitted to OLAF as evidence of fraud and following an administrative inquiry conducted by OLAF.

Where the disciplinary decision has a financial impact or involves a change in the grade it is forwarded to the Head of the Administration Unit for the adjustment of the salary. The Head of the Administration then requests the salary adjustment to the Paymaster's Office.

If the staff member contests an Executive Director's disciplinary decision, the disciplinary file may be referred to the Court of Justice of the European Union.

If the staff member addresses a complaint the disciplinary file may be referred to the European Ombudsman.

13 - Are there any transfers of personal data to third countries or international organisations? If so, to which ones and with which safeguards? N/A

14 - How is data stored? What are the security measures implemented?

The ERA “administrative inquiries and disciplinary procedures” file will be stored in the Resources and Support Unit in code protected fire-proof safes. An electronic (scanned) version of the same file will be stored in the designated software only accessible to the designated actors involved.

15 - For more information, including how to exercise your rights to access, rectification, object and data portability (where applicable) see the data protection notice

a) In the framework of the disciplinary procedures, the information to be provided (through a privacy statement) to the staff member concerned includes the processing of personal data, the identity of the data controller, the purposes of the processing operation for which the data are intended, the recipients or categories of recipients and the existence of a right of access to and the right to rectify the data.

The right to information can be restricted in certain cases if it constitutes a necessary measure in accordance with Article 20 of the Data Protection Regulation. The data controller should inform the staff member of the principal reasons on which the application of the restriction is based as well as of his/her right to have recourse against this decision.

b) The staff member can request access and copies of all documents directly related to the allegations made against him/her, except documents for which disclosure could jeopardize the privacy and right to data protection of third parties, or the legitimate guarantees given to the “whistleblowers”. When disclosure of the full document is not possible for the reasons explained supra, the staff member should have access, whenever it is possible, to at least an abridged version or excerpts of the document.

The staff member has the right to rectification in order to ensure completeness of his disciplinary file. This may be done, inter alia, by allowing him/her to add his comments. Any exceptions to the right of access of staff members should be strictly applied in light of necessity and they should be balanced in relation to the right of defense.

Particularly, in the case of whistleblowers, informants or witnesses, any restriction to the right of access should not be allowed unless such restriction is made in accordance with the Article 20 of the Data Protection Regulation. In any case, the identity of whistleblowers should be kept confidential in as much as this would not contravene national rules regarding judicial proceedings.

15a - Data subject rights

Right to have access; Right to rectify

16 - Legal Basis

Staff Regulations and CEOS and implementing Rules;

17 - Lawfulness of processing

Article 5 b) of Regulation (EU) 2018/1725The hereby notified processing is necessary for compliance purposes to the above mentioned rules (specifically Article 86 and Annex IX to the Staff Regulations as well as by Articles 49, 50 and 119 of the CEOS), since it is based on a task to be performed in the public interest as these rules provide for and is necessary for the legitimate exercise of official authority vested in the ERA, as an EU body.

18 - Data minimisation

Data needed to identify the staff concerned

19 - Accuracy

Data reviewed by the staff concerned

20 - Threshold assessment

NA

21 - Special category data

22 - DPIA

23 - Link to the Threshold assessment-Risks

24 - Other related documents