

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

**Processing operation:** ELA restrictions on data subjects' rights concerning personal data

**Data Controller:** European Labour Authority

**Record reference:** DPR-ELA-2022-0045

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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 restrictions on data subjects' rights concerning personal data' undertaken by the European Labour Authority (ELA) is presented below.

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

Purpose of the processing operation: The European Labour Authority collects and uses your personal information to perform several activities detailed above.

While processing personal data, the ELA is bound by Regulation (EU) 2018/1725 and therefore, is obliged to provide information to data subjects on those processing activities and to respect their rights as data subjects. However, under exceptional circumstances and, in accordance with Article 25 of the Regulation (EU) 2018/1725, ELA has approved the appropriate internal rules under which ELA is entitled in some specific cases to restrict those rights.

The ELA might be required to restrict data subjects' rights related to their personal data in the following cases:

- a) the performance of administrative inquiries and disciplinary proceedings;
- b) activities related to cases of potential irregularities reported to OLAF;
- c) whistleblowing procedures;
- d) formal and informal procedures for cases of harassment;
- e) processing internal and external complaints;
- f) internal and external audits;
- g) concerted and joint inspections, when providing or receiving assistance and cooperation to and from EU Member States' public authorities, either at their request or on ELA's own initiative;
- h) the investigations carried out by the Data Protection Officer (ELA DPO) in line with Article 45(2) of Regulation 2018/1725;
- i) (IT) security investigations handled internally or with external involvement (e.g. CERT-EU);
- j) processing personal data in documents obtained by the parties or interveners in the context of proceedings before the Court of Justice of the European Union.

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 Regulation (EU) 2018/1725, the processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the Union institution or body.

#### Legal basis:

- Regulation (EU) 2019/1149 of the European Parliament and of the Council of 20 June 2019 establishing a European Labour Authority,
- Decision No 20/2022 of 24 November 2022 of the Management Board 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 and
- 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.
- Staff Regulation of Officials ('Staff Regulations') and the Conditions of Employment of Other Servants of the European Union ('CEOS'), laid down by Council Regulation (EEC, Euratom, ECSC) No 259/681.

We do not process **special categories of personal data**, therefore Article 10 of the Regulation does not apply.

#### **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:

##### General for all processes:

Name, surname, position, Unit/Sector or organization, country and address.

Names and possibly contact details of ELA staff, staff of any other Agency/European Commission/European Ombudsman involved.

Possibly also names of other individuals referred to in that correspondence/complaint/ specific case.

Any other personal data spontaneously provided by the complainant in his/her complaint/request, including possibly the personal data of individuals other than the complainant.

##### Specific for each process:

##### **Administrative inquiries and disciplinary proceedings:**

Identification and contact data, financial, HR, social, behavioural data and other types of data specific to the processing operation, such as: legal qualification of the conduct or misconduct according to the Staff Regulations or other obligations; individual responsibility of the person concerned, including financial liability; disciplinary and criminal sanctions imposed to the person concerned. More specifically, identification data include: date of birth, nationality. Contact data include: e-mail address, institution and department, function. Financial data may include bank account references, IBAN and BIC codes. Professional data include professional experience, including details on current and past employment.

*Detailed information provided in Record 'DPR-ELA-2022-0036: Administrative inquiries and disciplinary procedure'.*

##### **Whistleblowing procedures:**

*In principle, whistleblowing should not be anonymous. Whistleblowers should be invited to identify themselves not only to avoid abuse of the procedure but also to allow their effective protection against any retaliation.*

Personal data that might be collected: evaluation of personal aspects of the data subject (e.g.: conduct, activities, working relations and/or social behaviour) and documents produced at work (emails, notes, correspondence, etc.), report: date and signature.

This process is covered by the Record 'DPR-ELA-2022-0021 Whistleblowing procedure'.

**Formal and informal procedures for cases of harassment:**

Name, surname of the alleged victim, and alleged harasser, information on the witness(es) and information/evidence on the alleged harassment.

This process is covered by the Record 'DPR-ELA-2022-0031: Anti-harassment procedure' published on ELA Register of processing of personal data.

**Processing internal and external complaints:**

ID number, copy of ID or passport, social security number, nationality and complaint/request concerning a specific situation that can possibly include: social security entitlements such as insurance periods, employers, medical data or family status. In some cases, ELA may receive special categories of data: health data or trade union membership.

This process is covered by the Record 'DPR-ELA-2022-0006 External complaints in the field of European labour mobility'

**Internal and external audits:**

Data for access to finance and contractual obligations. Such data can be: bank account reference (IBAN and BIC codes), VAT number, passport or ID number; timesheets, salary slips, accounts, details of the costs, missions, reports, information coming from local IT system used to declare costs as eligible, supporting documents linked to travel costs, minutes from mission and other similar data depending of the nature of the grant/contract, etc;

Information for the evaluation of selection criteria or eligibility criteria: expertise, technical skills and languages, educational background, professional experience, including details on current and past employment.

This process is covered by the Record 'DPR-ELA-2022-0025 ELA process of personal data related to internal and external Audits'.

**Concerted and joint inspections:**

Hand written notes of visual observations during the inspection, pictures/video and report, personal data related to the data subjects under inspection (e.g. employer, employees, other persons who are not subject to an inspection but are referred to in relevant documents): Name, education and training, identity documents (such as passport, identity card, social security number), employment details, timesheets, payslips, written contracts, emails regarding the personnel, all incoming/outgoing invoices, bank transactions, work carried out in the performance of their employment and/or the role(s) they perform in the organisation.

Interviews/hearings /questionnaires with employees and other concerned persons may take place as part of a investigation.

This process is covered by the Record 'DPR-ELA-2022-0029 ELA concerted and joint inspections'.

**Investigations carried out by the Data Protection Officer**

In addition to the general information, the following data may be requested if needed:

A copy of an identity document of applicants (where relevant), case involvement data.

This process is covered by the Record 'DPR-ELA-2022-004: Monitoring, investigative, auditing and consultative activities of ELA Data Protection Officer' published on ELA Register of processing of personal data.

**(IT) security investigations handled internally or with external involvement (e.g. CERT-EU):**

The nature of the fact under investigation, the place and time of its occurrence, the evidence discovered and the link between these elements and the persons.

This process is covered by the Record "DPR-ELA-2022-0033: Security investigations".

The provision of personal data is mandatory to meet a statutory requirement: ELA Regulation and Staff Regulations. If you do not provide your personal data, we will not be able to perform our duties.

### **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:

<p>The performance of administrative inquiries and disciplinary proceedings</p>	<p>Files containing documents in view of which it has been decided not to launch an administrative investigation: <b>maximum 2 years.</b></p> <p>Files containing the investigation report and the documents in view of which it has been decided not to open a disciplinary procedure: <b>maximum 5 years.</b></p> <p>Files containing the investigation report and the documents in view of which it has been decided to initiate an administrative procedure. Files containing the instruments of the disciplinary procedure, correspondence with the person(s) concerned and follow-up: <b>maximum 20 years.</b></p>
<p>Activities related to cases of potential irregularities reported to OLAF/European Ombudsman</p>	<p>Files covering the relations with the European Ombudsman, including the coordination and draft responses to the Ombudsman on ELA's opinion on complaints concerning alleged maladministration: <b>Maximum 5 years.</b></p>
<p>Whistleblowing procedures</p>	<p>Cases not to be referred to OLAF or out of the scope of whistleblowing procedure: <b>2 months</b> after the finalisation of the preliminary assessment or after being referred to the right channel.</p> <p>Cases referred to OLAF: <b>3 years</b> after receiving the final outcome of OLAF's procedure (investigation not launched, investigation closed with no further action, or final report).</p>
<p>Formal and informal procedures for cases of harassment</p>	<p><b>Maximum 3 years</b> from the moment the alleged harasser was informed</p>
<p>Processing internal and external complaints</p>	<p>Files concerning relevant complaints and requests to the Administration: <b>Maximum of 5 years.</b></p> <p>Files documenting the handling of complaints received by ELA from citizens who consider that ELA has not treated them in accordance with the principles of legality, non-discrimination, proportionality of measures to their objective or consistency in administrative behaviour: <b>Maximum of 3 years.</b></p>
	<p>Files on the audit programmes: <b>Maximum of 6 years</b></p> <p>Internal audit files containing the internal auditors' comments recorded during their auditing work, the internal auditors' opinion on the internal control system audited and recommendations: <b>Maximum of 10 years</b></p>

Personal data related to internal and external audits	Files on the opinions given by the ELA departments: Maximum of <b>6 years</b>  Files concerning ECA reports (drafts and follow-up) examining whether all revenue has been received and all expenditure has been incurred in a lawful and regular manner and establishing whether ELA's financial management is sound: Maximum of <b>10 years</b> .
Concerted and joint inspections	Maximum <b>5 years</b>
the investigations carried out by the Data Protection Officer	Files documenting the handling of complaints received by ELA from persons who consider that ELA has not acted in accordance with the data protection rules. Maximum of <b>5 years</b> .
(IT) security investigations handled internally or with external involvement (e.g. CERT-EU)	Maximum <b>5 years</b> .
Proceedings before the Court of Justice of the European Union	Files concerning cases before the European and national courts: Maximum of <b>5 years</b> .

#### **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, and when required, additional confidentiality agreements.

Specific for each process:

- **Administrative inquiries and disciplinary proceedings:** IDOC, OLAF and any other relevant actor which ELA is obligated to share the data with.
- **Whistleblowing procedures:** IDOC, OLAF and any other relevant actor which ELA is obligated to share the data with.
- **Formal and informal procedures for cases of harassment:** IDOC, OLAF and any other relevant actor which ELA is obligated to share the data with.

- **Processing internal and external complaints:** IDOC, OLAF and in some specific cases the relevant national/European courts.
- **Internal and external audits:** European Court of Auditors.
- **Concerted and joint inspections:** Stakeholders in the Concerted and Joint Inspections or MS affected/involved in the CJI.
- **Investigations carried out by the Data Protection Officer:** In some particular cases, the European Data Protection Supervisor (EDPS).
- **(IT) security investigations handled internally or with external involvement (e.g. CERT-EU):** CERT-EU.

No transfers to third parties or international organisations are foreseen in this process of personal data.

*Please note that pursuant to Article 3(13) of the Regulation, public authorities (e.g. Court of Auditors, EU Court of Justice) which may receive personal data in the framework of a particular inquiry in accordance with Union or Member State law shall not be regarded as recipients. The processing of those data by those public authorities shall be in compliance with the applicable data protection rules according to the purposes of the processing.*

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.

#### **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:

[Data-protection@ela.europa.com](mailto:Data-protection@ela.europa.com)

##### **- The Data Protection Officer (DPO) of ELA**

You may contact the Data Protection Officer ([data-protection@ela.europa.eu](mailto: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](mailto: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-2022-0045: ELA restrictions on data subjects' rights concerning personal data .