



RECORD OF A PERSONAL DATA PROCESSING ACTIVITY

according to Article 31 of [Regulation \(EU\) 2018/1725](#)

Title
Conduct of administrative inquiries and disciplinary proceedings at EFSA

1) Controller(s) ¹ of data processing activity (Article 31.1(a))
<p>EFSA unit in charge of the processing activity: Human Capital (HuCap)</p> <p>EFSA Data Protection Officer (DPO): DataProtectionOfficer@efsa.europa.eu</p> <p>Is EFSA a co-controller? No</p> <p>If yes, indicate who is EFSA's co-controller:</p>

2) Who is actually conducting the processing? (Article 31.1(a))
<p>The data is processed by EFSA itself X</p> <p><i>Indicate the EFSA units or teams involved in the data processing:</i></p> <ul style="list-style-type: none"> - duly authorized staff of the HUCAP and LA Unit - Members of the inquiry team, Investigation Panel or Disciplinary Board. <p>The processing operation is conducted together with an external party X</p> <p><i>Please provide below details on the external involvement:</i></p> <ul style="list-style-type: none"> - External members of the inquiry team, Investigation Panel or Disciplinary Board.

3) Purpose of the processing (Article 31.1(b))
<p>Processing of personal data, including personal data of a sensitive nature, in the context of administrative inquiries and disciplinary proceedings carried out at EFSA in compliance with the applicable rules.</p>

4) Legal basis and lawfulness of the processing (Article 5(a)–(d)):
<p><i>Processing necessary for:</i></p> <p>(a) a task carried out in the public interest or in the exercise of official authority vested in EFSA X</p>

¹ The controller decides on the purposes and means of the data processing. In case of joint controllership (e.g. systems of the European Commission applied by EFSA or jointly with another agency), EFSA is a co-controller.

- (b) compliance with a legal obligation to which EFSA is subject
- (c) performance of a contract with the data subject or to prepare such contract
- (d) The data subject has given consent (ex ante, explicit, informed)

Further details on the legal basis:

- Art. 86 of the Staff Regulations and Annex IX thereof ; Articles 49 to 50a and Article 119 of the CEOS ;

- EFSA decisions in place, namely: Decision of the Executive Director of 09 September 2009 on the implementation rules for the conduct of administrative inquiries and for disciplinary proceedings and Decision of the Executive Director of 26 October 2019 concerning the establishment of a Disciplinary Board. To add that the ED Decision of 2009 likely will be repealed soon by means of a MB Decision 'laying down general implementing provisions on the conduct of administrative inquiries and disciplinary proceedings', which is expected to be adopted during 2020. This MB Decision is based on a EC Model Decision;

- Decision of the Management Board on internal rules concerning restrictions of certain rights of data subjects in relation to processing of personal data in the framework of the functioning of EFSA, dd. 19/06/2019.

5) Description of the categories of data subjects (Article 31.1(c))

Whose personal data are processed?

- EFSA statutory staff
- Other individuals working for EFSA (consultants, trainees, interims, experts)
- Stakeholders of EFSA, including Member State representatives
- Contractors of EFSA providing goods and services
- The general public, including visitors, correspondents, enquirers
- Relatives of the data subject
- Other categories of data subjects (please detail below)

Further details concerning the data subjects whose data are processed:

The rules on AIDP are applicable to statutory staff employed at EFSA, including officials, temporary agents and contract agents and any person whose data may be processed in the context of an inquiry or proceeding (e.g. victim or witness).

6) Type of personal data processed (Article 31.1(c))

a) General personal data

The personal data concerns:

- | | |
|---|-------------------------------------|
| Name, contact details and affiliation | <input checked="" type="checkbox"/> |
| Details on education, expertise, profession of the person | <input type="checkbox"/> |
| Curriculum vitae | <input type="checkbox"/> |
| Financial details | <input type="checkbox"/> |
| Family, lifestyle and social circumstances | <input type="checkbox"/> |
| Goods and services the person provides | <input type="checkbox"/> |
| Other personal data (please detail): | <input checked="" type="checkbox"/> |

b) Sensitive personal data (Article 10)

The personal data reveals:

- | | |
|---|--------------------------|
| Racial or ethnic origin of the person | <input type="checkbox"/> |
| Political opinions or trade union membership | <input type="checkbox"/> |
| Religious or philosophical beliefs | <input type="checkbox"/> |
| Health data or genetic or biometric data | <input type="checkbox"/> |
| Information regarding the person's sex life or sexual orientation | <input type="checkbox"/> |

Further details concerning the personal data processed:

The following personal data may be processed as part of an inquiry or proceeding:

- Information from the personal file of the person being investigated ;
- Information on the nature of the inquiry or alleged complaint ;
- Personal data regarding the complainant, which may be data from this person's personal file.

It should be noted that in the context of administrative inquiries and disciplinary proceedings special data categories referred to in art. 10(1) of Regulation (EU) 2018/1725 may be processed if this is necessary for the investigation in question.

The Appointment document of members of an Investigation Panel draws the attention of investigators to the restrictive rules on processing of such special categories of personal data.

7) Recipients of the data (Article 31.1(d))

- | | |
|-----------------------------------|-------------------------------------|
| Line managers of the data subject | <input type="checkbox"/> |
| Designated EFSA staff members | <input checked="" type="checkbox"/> |

Other recipients (*please specify*):

- duly authorized staff of the HUCAP Unit
- EFSA Executive Director, Head of BuS Dept. (administration)
- Members of the Investigation Panel or Disciplinary Board
- Data subject being investigated, taking into consideration any restrictions in the sense of Art. 25 of the Regulation in application of the EFSA Internal Rules
- Other EU Bodies: OLAF, the European Ombudsman, the EDPS
- EU Court of Justice
- a transmission to a competent national court in Italy may be possible in case of an infringement of Italian national law.

8) Transfers to recipients outside the EEA (Article 31.1 (e))

Data are transferred to third country recipients:

Yes No

If yes, specify to which third country:

If yes, specify under which safeguards:

- | | |
|--|--------------------------|
| Adequacy Decision of the European Commission | <input type="checkbox"/> |
| Standard Contractual Clauses | <input type="checkbox"/> |
| Binding Corporate Rules | <input type="checkbox"/> |
| Memorandum of Understanding between public authorities | <input type="checkbox"/> |

9) Technical and organisational security measures (Article 31.1(g))

How is the data stored?

- | | |
|--|-------------------------------------|
| On EFSA's Document Management System (DMS) | <input type="checkbox"/> |
| On a shared EFSA network drive or in an Outlook folder | <input type="checkbox"/> |
| In a paper file | <input checked="" type="checkbox"/> |
| Using a cloud computing solution (please detail the service provider and main characteristics of the cloud solution, e.g. public, private) | <input type="checkbox"/> |
| On servers of an external service provider | <input type="checkbox"/> |
| On servers of the European Commission or of another EU Institution | <input type="checkbox"/> |
| In another way (<i>please specify</i>): | <input type="checkbox"/> |

Please provide some general information on the security measures applied:

- The data processing operation is mainly paper-based. The disciplinary file including all documentation shall be placed in a locked filing cabinet of the HUCAP Unit allowing access solely to authorised individuals
- Data relating to traffic data: Internet connections, e-mails or telephone usage is only collected if relevant to the nature of the inquiry and is processed in accordance with Regulation 2018/1725.

10) Retention period (Article 4.1 (e))

The conservation period of disciplinary files at EFSA shall be:

- A maximum period of 20 years in case, following an administrative inquiry, a charge is brought against the staff member concerned
- In any case not longer than until the final decision has been deleted from the personal file ;
- A maximum period of 5 years for administrative inquiries without disciplinary follow-up unless there is a repeat complaint.

Only a copy of the final decisions taken in a disciplinary proceeding, or copies of a final decision related to an acquittal should be inserted in the personal file.

In accordance with article 27 of Annex IX to the Staff Regulations, a staff member against whom a disciplinary penalty other than removal from post has been ordered may, after three years in the case of a written warning or reprimand or after six years in the case of any other penalty, submit a request for the deletion from his/her personal file of all reference to such measure. The Executive Director decides whether to grant this request.

11) Consultation with the Information Security Officer

Was the ISO consulted on the processing operation ?

Yes No

If yes, please provide some details on the consultation with the ISO:

12) Information given to data subjects (Articles 15 and 16)

Has information been provided to data subjects on the way their data is processed including how they can exercise their rights (access, rectification, objection, data portability)? Usually this information is provided in a Privacy Statement, specifying the controller's contact details. As possible, please provide a link to the relevant Privacy Statement or a description.

When an administrative inquiry is opened, the data subject receives a 'Notification of Administrative Inquiry' (see template in Annex 2) which states the rights of access and rectification, as follows: "The person being investigated shall have the right of access to any information relating to him/her processed in the context of the inquiry and the right to rectify any such data that are inaccurate or incomplete. The rights of access and rectification referred to may be restricted mainly in order to safeguard the protection of the rights and freedoms of other persons. The person being investigated in any case has the right to ensure

completeness of the disciplinary file in question by adding his/her comments and by including in it any recourse or appeal decision. To exercise his/her rights, the person being investigated should contact the controller in charge of processing the data, which is the Head of EFSA Human Resources Unit. As a data subject, he/she also has the right of recourse to the European Data Protection Supervisor (EDPS).”

All documentation will be made available to the subject, with the restriction of documentation that could be presented as a safeguard to ‘protect the rights and freedoms of others’, as in the case of whistleblowers, informants or witnesses. Should these restrictions to the data subject’s rights be applicable, a note will be placed in the disciplinary file.

Last update of this record: 24/03/2020

Reference: DPO/HR/10