



## NOTIFICATION FORM

### FOR DATA PROCESSING OPERATIONS

Date of registration:

Register No: HR4

#### 1. Name of the data processing operation

Management of Administrative inquiries and disciplinary procedures

#### 2. Data Controller

Programme or Group: ADS 1/Human Resources Management

Function: Head of Group

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#### 3. Description of the processing operation

##### 3.1. Area of activity in which the processing is carried out

The purpose of the processing operations is to manage administrative enquiries in view of establishing the facts and, where appropriate, determine whether there has been a failure to comply with the obligations incumbent on EEA staff members. This implies the constitution of disciplinary files (paper and electronic files), and lists of opened and completed cases. The administrative enquiry shall be opened at the request of the Appointing Authority.

In case the administrative enquiry concludes that the staff member has failed to comply with his/her obligations under the Staff Regulations, the Appointing Authority may require opening a disciplinary procedure before the Disciplinary Board. In accordance with Annex IX to the Staff Regulations, the Disciplinary Board shall give an opinion on the facts complained of and on any penalty these facts should give rise. The deliberations and proceedings of the Disciplinary Board shall be secret.

The personal data processed within the selection procedure fall under Article 27 (2) (a) and (b) of Regulation (EC) No 45/2001. The processing operation has been prior checked by the European Data Protection Supervisor (Case C-2010-0996).

##### 3.2. Modalities for the processing operation

<input checked="" type="checkbox"/> Manual processing	Personal data is processed manually for the purpose of management and administration of the administrative enquiry and/or disciplinary procedure (e.g. contacts with the person
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	concerned/witness/informant during the investigation and written communications to the person concerned upon completion of the investigation).
<input type="checkbox"/> Automated processing	
3.3. Are the Personal data processed by an entity external to EEA ('processor')	
<input type="checkbox"/>	Yes
<input checked="" type="checkbox"/>	No

<b>4. Lawfulness and purpose of the processing</b>	
4.1. Legal basis	
<ul style="list-style-type: none"> <li>○ Staff regulation of Officials of the European Communities, and in particular Articles 22 and 86 thereof and Annex IX thereto;</li> <li>○ Conditions of Employment of Other Servants of the European Communities, and in particular Articles 49, 50 and 119 thereof;</li> <li>○ Decision of the EEA Management Board laying down general implementing provisions on the conduct of administrative enquiries and disciplinary procedures adopted on 15.2.2013.</li> </ul>	
4.2. Grounds for lawfulness	
<p>Processing is necessary for the performance of a task carried out in the public interest by the Community institutions and bodies which includes the processing of personal data necessary for the management and functioning of those institutions and bodies (Article 5(a) of Regulation (EC) No 45/2001).</p> <p>Processing is necessary for compliance with legal obligation laid down in the Staff Regulations and the Conditions of Employment of Other Servants of the European Communities to which the controller is subject (Article 5(b) of Regulation (EC) No 45/2001).</p>	
4.3. Purpose of the processing	
<p>Management and administration of administrative enquiries, opened at the request of the Appointing Authority, in view of establishing the facts and, where appropriate, determine whether there has been a failure to comply with the obligations incumbent on EEA staff members. See sections 4.1 and 4.2 above.</p>	

<b>5. Features of the processing operation</b>	
5.1. Categories of data subjects concerned	
<ul style="list-style-type: none"> <li>○ Staff members currently employed at the EEA and staff members having left the EEA, including officials, temporary agents and contract agents, subject to an administrative enquiry.</li> <li>○ Staff members currently employed at the EEA and staff members having left the EEA, including officials, temporary agents and contract agents, subject to a disciplinary procedure before the Disciplinary Board.</li> </ul>	

<ul style="list-style-type: none"> <li>○ Witnesses summoned by the staff member concerned or heard by the Disciplinary Board in the framework of an investigation decided by the Disciplinary Board.</li> </ul>	
5.2. Categories of data	
5.2.1. Data whose processing is likely to present specific risks and is subject to prior checking by the EDPS	
<input checked="" type="checkbox"/>	Data relating to suspected offences, offences, criminal convictions or security measures
<input checked="" type="checkbox"/>	Data relating to the evaluation of personal aspects of the data subject (e.g. abilities, efficiency and conduct)
<input type="checkbox"/>	Data concerning linkages (not provided for by national or Community legislation) between data processed for different purposes
<input type="checkbox"/>	Data relating to the exclusion of individuals from a right, benefit or contract
5.2.2. Other categories of data	
<input checked="" type="checkbox"/>	<p>Personal data collected and further processed concern a staff member or a former staff member suspected to have failed to comply with his/her obligations under the Staff Regulations. Information can relate to all or some of the following data:</p> <p>Name (title, first name, surname) and function; the behaviour, action or inaction of the person subject to an administrative enquiry and/or a disciplinary procedure; the legal definition of this action or inaction by reference to the Staff Regulations and other obligations incumbent on the person concerned; the personal liability of the person concerned including financial liability (Article 22 of the Staff Regulations); as the case may be, the penalty imposed on the person concerned.</p> <p>Processing of sensitive data as defined by Article 10(1) of Regulation (EC) No 45/2001 in the framework of an administrative enquiry and/or disciplinary procedure shall be avoided unless one of the circumstances foreseen in Article 10(2), 10(4) and (10(5), interpreted in a strict sense, can be applied.</p>

## 6. Retention practice of personal data

<ul style="list-style-type: none"> <li>○ Files relating to administrative enquiry and files relating to disciplinary procedure shall be kept for a maximal period of 20 years as from the date the administrative enquiry was closed or as from the date of the final disciplinary decision. The files may only be consulted by the staff members concerned or the Disciplinary Board members.</li> <li>○ In case where an administrative enquiry is closed without a disciplinary follow-up, the file shall be kept for a maximum period of 5 years as from the date the administrative enquiry was closed.</li> <li>○ Only the final disciplinary decision shall be kept in the personal file of the person concerned taking into account the provisions of Article 27 of Annex IX to the Staff Regulations concerning the request for deletion of such data. The Appointing Authority shall decide to grant such request.</li> <li>○ In accordance with Article 22(2) of Annex IX to the Staff Regulations, if the Appointing Authority decides to close the case without imposing disciplinary penalty, and it informs the person concerned accordingly in writing without delay, there shall be no traces of</li> </ul>	
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this decision in the personal file unless the person concerned requests so.

#### 7. Personal data processed for historical, statistical or scientific purposes

No personal data is kept for historical, statistical or scientific purposes. Only aggregated data, i.e. list of open and completed cases is used for statistical purpose.

Purpose	Categories of data	Storage media
<input type="checkbox"/> Historical	Not applicable	<input type="checkbox"/> Anonymous <input type="checkbox"/> Encrypted
<input type="checkbox"/> Statistical	Not applicable	<input type="checkbox"/> Anonymous <input type="checkbox"/> Encrypted
<input type="checkbox"/> Scientific	Not applicable	<input type="checkbox"/> Anonymous <input type="checkbox"/> Encrypted

#### 8. Recipients or categories of recipients to whom the data might be disclosed

- The complete disciplinary file is submitted to the Appointing Authority, i.e. the EEA's Executive Director, and to the member of the Disciplinary Board in the event where a disciplinary procedure is opened. Upon completion of the administrative enquiry and/or disciplinary procedure, the disciplinary file is transferred to the Human Resources Management Group (HRM Group), for filing and inclusion of the final disciplinary decision in the personal file, where appropriate.
- The final disciplinary decision may be communicated to OLAF where the disciplinary procedure was triggered by a request from OLAF.
- Where the final disciplinary decision entails financial consequences for the staff member concerned, the final disciplinary decision is forwarded to PMO (salary processing).
- Where the facts complained of lead to suspicion of financial irregularities, the conclusion related to the facts are forwarded to the specialised financial irregularities panel (Articles 60(6) and 66(4) of the general Financial Regulation).
- In the event of appeal lodged against the disciplinary decision, the disciplinary file may be communicated to the Civil Service Tribunal, the General Court or the European Ombudsman.

The Staff member concerned shall be duly informed of any transfer of data mentioned above. Similarly any recipient of the data shall be reminded of their obligation not to use the data received for other purposes than the one for which they were transmitted (see annex 3 attached).

#### 9. Proposed transfer of personal data to third countries or international organisations

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|------------------------------|---|
| <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No transfer of personal data to third party countries or international organisations. |
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10. Information given to the data subjects as described in Articles 11 & 12 of the Regulation (EC) No 45/2001)

In accordance with Article 2.1 of Annex IX to the Staff Regulations, the person concerned shall rapidly be informed of the opening of an administrative enquiry, provided this is not harmful to the investigation.

The opening of a disciplinary procedure shall be notified to the person concerned in accordance with the provisions of Annex IX to the Staff Regulations and after having heard the person concerned (Article 3 of Annex IX to the Staff Regulations).

If the person concerned has not been informed because of the secrecy required for the purposes of the investigation, the Appointing Authority shall inform the person concerned immediately once the reasons for deferring the disclosure of the information has ceased.

The person concerned is provided with the attached privacy statement in accordance with Article 12 of Regulation (EC) No 45/2001 (see Annex 1).

11. Procedures to enable data subjects to exercise their rights (*as indicated in Articles 13 to 19 of the Regulation (EC) No 45/2001, i.e. access, rectification, blocking, erasure, objection*)

In accordance with Articles 1 and 2 of Annex IX to the Staff Regulations, the person concerned has the opportunity to comment on facts which relate to him/her and express an opinion on the report drawn in the framework of an administrative enquiry. The conclusions of the investigation shall make reference to his/her comments.

In accordance with Article 13 of Annex IX to the Staff Regulations, the person concerned has the right to obtain his/her complete personal disciplinary file and take copies of all documents relevant to the proceedings, including exonerating evidences.

The person concerned may request the addition of comments or documents to his/her personal disciplinary file and he/she has the right to rectify his/her personal data in order to ensure completeness and accuracy of his/her disciplinary file, as for instance decisions are made in the progress of the administrative enquiry and/or the disciplinary procedure.

The above mentioned rights of access and rectification may be restricted within the limits of the possible exemptions set out in Article 20 of Regulation (EC) No 45/2001. In addition, the right of information may be restricted in certain cases in light of Article 20(1) (a-e) of that regulation. In pursuance with Article 20(3) of Regulation (EC) No 45/2001, the person concerned shall be informed of the principal reasons on which the application of the restriction is based and of his/her right to have recourse to the EDPS.

Witnesses and informants have the right of access and rectification of the records of their hearing. These rights of access and rectification may be restricted in line with the provisions of Article 20 of Regulation (EC) No 45/2001. The identity of witnesses and informants shall be kept confidential in as much as this would not contravene national rules regarding judicial proceedings. In pursuance with Article 20(3) of Regulation (EC) No 45/2001, witnesses and informants shall be informed of the principal reasons on which the application of the restriction is based and of their right to have recourse to the EDPS.

12. Time limits for blocking and erasure of the different categories of personal data (*on justified legitimate request from the data subject – Please, specify the time limits for every category*)

The person concerned may request the blocking of data considered to be inaccurate, out-dated or incomplete for the time necessary to assess their accuracy.

Categories of data	Blocking	Erasure
Any personal data asked for	Within maximum 5 working days	Within maximum 5 working days