

PRIVACY STATEMENT

Statement on personal data protection within the framework of an administrative enquiry and/or a disciplinary procedure

Personal data are processed in accordance with Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data.

Processing operations are under the responsibility of the Head of Human Resources Management group (HRM Group) acting as Data Controller, regarding the collection and processing of personal data.

1. Purpose(s) of the processing

Your personal data is collected and further processed for the purpose of the 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. This implies the constitution of disciplinary files (paper and electronic files), and lists of open and completed cases.

In case the administrative enquiry concludes that the person concerned 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.

2. Recipients of the data processed

For the purpose detailed above, access to your personal data is given to the following persons:

- The complete disciplinary file is submitted to the Appointing Authority, i.e. the EEA's Executive Director, and to 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 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 the PMO (salary processing)

- Where the facts complained of lead to suspicion of financial irregularities, the conclusions related to the facts are communicated 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.

You 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.

3. *Personal data concerned*

The personal data of a staff member or former staff member, a witness or informant collected during an investigation.

4. *Categories of data processed*

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:

- 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;

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 Articles 10(2), 10(4) and 10(5), interpreted in a restrictive sense, can be applied.

5. *Modalities for the processing operation*

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 concerned/witness/informant during the investigation and written communications to the person concerned upon completion of the investigation).

6. *Right of access and rectification*

In accordance with Articles 1 and 2 of Annex IX to the Staff Regulations, you have the opportunity to comment on facts which relate to you and express an opinion on the report drawn in the framework of an administrative enquiry. The conclusions of the investigation shall make reference to your comments.

In accordance with Article 13 of Annex IX to the Staff Regulations, you have the right to obtain your complete personal disciplinary file and take copies of all documents relevant to the proceedings, including exonerating evidences.

You may request the addition of comments or documents to your personal disciplinary file and you have the right to rectify your personal data in order to ensure completeness and accuracy of your 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, you shall be informed of the principal reasons on which the application of the restriction is based and of your 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.

Any request for access or rectification of personal data shall be addressed in writing to the Head of the HRM Group at the following address personnel@eea.europa.eu, or European Environment Agency, Mrs Lene B. Pedersen, Head of HRM Group (ADS1), Kongens Nytorv 6, 1050 Copenhagen K, Denmark.

7. Legal basis

The legal bases for the processing operations on your personal data are the following:

- Council Regulation (EEC, Euratom, ECSC) No 259/68 of 29 February 1968 laying down the Staff Regulations of Officials of the European Communities and the Conditions of employment of other servants of the European Communities (OJ L 56 of 4.3.1968, Special edition 1968, 1.12.1972) and the subsequent regulations and corrigenda amending and correcting that regulations, and in particular Articles 22 and 86 and Annex IX to the SR and Articles 49, 50 and 119 of the CEOS;
- Draft decision of the Management Board of the European Environment Agency laying down general provisions on the conduct of administrative enquiries and disciplinary procedures;

8. Legality of processing

Processing is necessary for the performance of tasks carried out in the public interest on the basis of the Staff Regulations and the Conditions of employment of other servants of the European Communities (Article 5(a) of Regulation (EC) No 45/2001).

Processing is necessary for compliance with legal obligations laid down in the Staff Regulations and in 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).

9. Data retention

- 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.
- In cases 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.
- 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 whether to grant such request.
- In accordance with Article 22(2) of Annex IX to the Staff Regulations, if the Appointing Authority decides to close the case without imposing any disciplinary penalty, and it informs the person concerned accordingly in writing without delay, there shall be no traces of this decision in the personal file unless the person concerned requests so.

10. Right to appeal

You are entitled to have recourse at any time to the European Data Protection Supervisor (<http://www.edps.europa.eu>; EDPS@edps.europa.eu) if you consider that your rights under Regulation (EC) No 45/2001 have been infringed as a result of the processing of your personal data by the EEA.

You may also contact the EEA's Data Protection Officer (DPO) in case of any difficulties or for any questions relating to the processing of your personal data at the following e-mail address: Data.ProtectionOfficer@eea.europa.eu