

## Privacy statement - Administrative inquiries and disciplinary proceedings

In the course of an administrative inquiry and/or disciplinary proceeding certain personal data will need to be processed by the Agency. Below you will find more information about the processing and the Data Protection safeguards put in place by the Agency to make sure any processing of your personal data is in line with Regulation (EU) 2018/1725 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.

### What is the legal basis and the purpose of processing your personal data?

Following Article 86 of the Staff Regulations any failure by staff members to comply with their obligations under the Staff Regulations shall make them liable to disciplinary action. Disciplinary rules, procedures and measures and the rules and procedures covering administrative investigations are laid down in Annex IX of the Staff Regulations.

Besides that, the Management Board of ECHA has adopted Implementing Rules on the conduct of administrative inquiries and disciplinary proceedings (MB/12/2012 final).

Any personal data will be processed solely for the purpose of establishing the facts and circumstances and determining whether there has been a failure to comply with the obligations incumbent on the staff of the Agency, after which the necessary sanctions can be imposed.

### What personal data is collected?

The data collected shall include contact information and any personal information which is needed to establish the facts and circumstances described above. This data shall mainly concern information regarding professional conduct and may in some cases involve special categories of data (e.g. data relating to offences). Traffic data relating to users which is processed and stored to establish calls and other connections over the telecommunications network shall only be collected in exceptional circumstances where no other less invasive method could be used and after consulting the Data Protection Officer.

### Who has access to your personal data and to whom is it disclosed?

The data collected will only be disclosed to the absolute minimum of persons involved in the administrative inquiry and/or disciplinary proceedings. This could involve among others the staff members concerned, the Authority authorised to conclude the contracts (AACC), the Director of Resources or a person designated by the AACC to coordinate the disciplinary procedures, the investigator, the person designated to hold the hearing, the members of the Disciplinary Board, the legal service of the Agency or any other person involved in the procedure. All internal recipients of the data shall be required to sign a specific confidentiality declaration.

Where necessary the data may also be transferred to external EU bodies, such as the Specialised Financial Irregularities Panel, OLAF, the European Ombudsman, the European Data Protection Supervisor or the General Court. If the necessity is clearly established and if strict compliance with Article 9 of Regulation (EU) 2018/1725 (the 'Data Protection Regulation') is guaranteed, the data may also be transferred to national authorities on their request or on the initiative of the Agency.

### Who is the data controller?

The Head of Unit Human Resources shall exercise the tasks of the data controller for the purpose of this processing operation.

## How long are your personal data kept?

All documents relevant to the administrative inquiry and the disciplinary proceedings are stored in a **disciplinary file**. This file is stored for a maximum period of 20 years if, following the administrative inquiry, a charge is brought against the person concerned and for a maximum of five years for administrative inquiries without disciplinary follow-up. In case the reference to the sanction is deleted from the personal file, the full disciplinary file shall equally be deleted.

The **personal file** of the staff member concerned shall only contain the possible interim decisions to suspend him/her from his/her duty and the final decisions taken in the disciplinary proceedings. The final decision related to a staff member's acquittal shall only be inserted in the personal file should the staff member request so.

## What are your rights?

Any person involved in the procedure has the right to be informed about the processing of his/her personal data, and is entitled to access and rectify that data. Under certain conditions, a right to erasure, restriction, objection and/or data portability also applies.

Please note that, following Article 25 of the Data Protection Regulation, these rights may be restricted (e.g. where such restriction is necessary for the prevention, investigation, detection and prosecution of criminal offences or for the protection of the rights and freedoms of others, including whistleblowers, informants or witnesses). In that case the data subject shall be informed of the principal reasons for applying such restrictions and he/she shall have the right of recourse to the European Data Protection Supervisor. Any restrictions shall be applied strictly and balanced with the right of defence. Especially the identity of whistleblowers shall be kept confidential as far as this does not contravene national rules regarding judicial proceedings. In practice, the above mentioned rights shall be exercised as follows:

### 1. Administrative inquiry

The staff member(s) concerned shall be kept informed about the administrative inquiry as soon as it becomes clear that the staff member may be personally involved provided that the information does not hinder the inquiry. He/she shall be given the opportunity to express his/her opinion before the investigator closes his report and to add any comments. A copy of the conclusions of the report is sent to the staff member(s) concerned and on request access to all documents directly related to the allegations is given, subject to the legitimate interests of the third parties.

### 2. Hearing

Before any decision is taken on the follow-up of the investigation report, a hearing of the staff member(s) concerned shall be held and prior access to all the evidence in the files shall be granted at this point. He/she may add comments to the record of the hearing and on request also receive a copy of the records of interviews with other persons that have been heard.

### 3. Disciplinary proceedings

If disciplinary proceedings are initiated, the report from the AACC to the Chairman of the Disciplinary Board shall be forwarded to the staff member(s) concerned. He/she shall be heard by the Board. At the hearing, he/she may submit observations in writing or orally. The AACC shall take its final decision only after hearing the staff member(s) concerned.

To exercise the above mentioned rights, contact the data controller at [hr@echa.europa.eu](mailto:hr@echa.europa.eu).

When experiencing difficulties in exercising these rights, you can contact ECHA's Data Protection Officer ([data-protection-officer@echa.europa.eu](mailto:data-protection-officer@echa.europa.eu)) or have recourse to the European Data Protection Supervisor.