



PRIVACY NOTICE

on the processing of personal data in the context of administrative inquiries and disciplinary proceedings

1. Introduction

The European Asylum Support Office (hereafter “EASO” or “Agency”) is committed to protect your personal data and to respect your privacy. EASO 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 Notice 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.

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

The purpose of processing the below personal data is to collect information relevant to the conduct of an administrative inquiry or disciplinary procedure, should you be directly concerned by the inquiry or a third person such as a witness.

Please note that hindering an administrative inquiry or a disciplinary proceeding may have possible disciplinary consequences, for example, if a witness maliciously makes a false witness statement or wilfully withhold or destroy evidence it could serve as a ground for a separate inquiry and proceeding.

EASO processes the data for the preliminary assessment stage (pre-inquiry), when the Executive Director (or Management Board where applicable) is informed of a situation with a possible disciplinary dimension. An administrative inquiry is opened at the request of the Executive Director (or Management Board where applicable). After a consultation with the European Anti-Fraud Office (OLAF), that no investigation takes place for its own purposes, the Executive Director (or Management Board where applicable) appoints normally an internal investigator to carry out an inquiry. A disciplinary file is created collecting information about the facts and witnesses of the events. On the basis of the report produced by the investigator, or an OLAF report in case of investigations performed by OLAF, the Executive Director (or Management Board where applicable) might decide to initiate a disciplinary proceeding before the EASO Disciplinary Board.

3. On what legal ground(s) do we process your personal data?

We process your personal data on the basis of Article 5(1)(a) of the Regulation 2018/1725, because 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.

This form of data processing is also carried out data by virtue of Article 86 and Annex IX of the Staff Regulations, and Articles 50a and 119 of the Conditions of employment of other servants of the European Union (Regulation No 31 (EEC), 11 (EAEC)).

The specific legal basis for the processing of personal data in relation to administrative inquiries and disciplinary proceedings is:

- European Commission Decision C(2019)4231 of 12 June 2019 laying down general implementing provisions on the conduct of administrative inquiries and disciplinary proceedings, applicable to EASO by analogy on 17 March 2020 (as per Art 110(2) SR);
- Management Board Decision No. 69 of 25 September 2020 on the application of the European Commission general implementing provisions on the conduct of administrative inquiries and disciplinary proceedings to EASO (EASO/MB/2020/194);
- Management Board Decision no. 64 of 6 July 2020 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 the Agency.¹

Prior to processing special categories of personal data, the Agency will establish the applicable lawful ground under Article 10 of the Regulation, and more specifically where: 1) the processing is necessary for the purposes of carrying out the obligations and exercising specific rights of the controller or of the data subject in the field of employment and social security and social protection law insofar as it is authorised by Union law providing for appropriate safeguards for the fundamental rights and the interests of the data subject; 2) the processing is necessary for the establishment, exercise or defence of legal claims; or 3) the processing is necessary for reasons of substantial public interest, on the basis of Union law which shall be proportionate to the aim pursued, respect the essence of the right to data protection and provide for suitable and specific measures to safeguard the fundamental rights and the interests of the data subject.

Where processing of personal data relating to criminal convictions and offences is carried, this will be in line with Article 11 of the Regulation and the above mentioned Implementing Rules.

4. Which personal data do we collect and further process?

The following categories of personal data may be processed:

Personal data relating to all data subjects (i.e. person concerned by the administrative inquiry and disciplinary procedure and other participating in the inquiry):

- staff member's basic personal information (name, surname, rank and personal staff number);
- staff member's contact details and other personal data concerning the recruitment or the evaluation of the staff member (name of line manager, hiring date, contractual category and grade, organisational entity to which one belongs);

¹ Available here: [https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32020Q0827\(01\)](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32020Q0827(01))

- Events, facts and witness testimonies referring to the staff member involved in the AI&DP about the situation with a possible disciplinary dimension;
- Names of the administrative investigator and of the members of the Disciplinary Board.

Personal data relating to data subjects who are the subject of the particular administrative inquiry and disciplinary procedure (which may be revealed during the inquiry directly from the concerned staff member(s) or indirectly from informants or witnesses or from documents containing personal data used as evidence):

- personal data related to absences, leave, missions, learning and development and generally to the working performance, economic and social behaviour where relevant to the performance of the staff member's tasks;
- personal data related to the private sphere and life of the staff member (social activities, behaviour), additional data related to the staff member's identity and personal status (gender, age), comments on the abilities and efficiency of the concerned staff member(s);
- only when necessary and related to the administrative inquiry and disciplinary procedure: special categories of personal data (sensitive data) concerning the staff member: health data, religion (or opinions on religion), political opinions (or opinions on political status/opinions), philosophical beliefs (or opinions on philosophical beliefs), or trade union membership ((or opinions on trade union membership) sex life or sexual orientation (or opinion on sex life or sexual orientation), race or ethnic origin (or opinion on race or ethics origin);
- personal data relating to criminal convictions and offences.

The Agency adheres to the principles of data minimisation, necessity and proportionality regarding the personal data to be collected, the means and steps of the investigation. The collection of personal data will be limited to what is directly and strictly relevant and necessary to the purpose of the inquiry and of the disciplinary proceeding.

5. How long do we keep your personal data?

In line with Article 4(1)(e) of the Regulation, personal data shall be kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data are processed. In determining the maximum retention periods, the Agency has taken into account the nature of the sanction, possible legal recourses, legal, auditing, archiving and reporting obligations.

Documents of administrative inquiry proceedings without a disciplinary follow-up or where there is no charge against the staff member are held for 5 years from the date of the last document on the file.

Documents of the disciplinary board are retained for 10 years from the date of the last document inserted to the file.

Where a disciplinary penalty other than dismissal has been made, the decision is notified to you in writing and the original decision is inserted in your personal file. After 3 years in the case of a written warning or reprimand or after six years in the case of any other penalty, you may request deletion from your personal file of all reference to the measure. This request should be addressed to the Executive Director (or Management Board where applicable). If such request is granted, the data will also be removed from the disciplinary file. Where there is no disciplinary penalty, there will be no trace of the acquittal decision in your personal file unless you request it.

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 on the servers of EASO.

In order to protect your personal data, EASO 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?

The Executive Office stores your personal data within a disciplinary file, which gathers information related to an inquiry, including the report of the investigator(s), Decisions taken by the Executive Director (or Management Board where applicable), and information related to the involvement of the Disciplinary Board including the opinion of the Disciplinary Board.

The Executive Director (or Management Board where applicable), the investigator(s) and the Disciplinary Board will have access to the data in the case file. Any person other than the members of the investigating team or the Disciplinary Board who might be involved in the processing of personal data in the context of the inquiry or disciplinary proceeding (such as IT staff potentially involved in case evidence in the form of electronic information is necessary and relevant for the inquiry or proceeding on question) will be authorised to process such information on a strictly need-to-know basis. The investigator(s) request should be specific so that only specific and relevant information would be extracted and further processed.

Information about the case may be shared with the European Anti-Fraud Office (OLAF) for consultation to ensure that no parallel inquiry is pending at OLAF. The disciplinary file may be transferred to the European Court of Justice in the case of an appeal and alternatively to the European Ombudsman in the case of maladministration. Any transfer of personal data to recipients within or to other EU institutions must comply with specific requirements. Transfers of personal information within the EU institutions may only take place as long as they are necessary for the performance of the recipient's tasks and competences and should also occur on a strict need-to-know basis.

8. What are your rights and how can you exercise them?

As a data subject (i.e. the living and identifiable individual whose personal data is processed), you have a number of rights:

- **Right to be informed** – You have the right to be informed about the collection and use of your personal data This Privacy Notice provides information on how EASO collects and uses your personal data.
- **Right to access** – You have the right to access your personal data. You have the right to request and obtain a copy of the personal data processed by EASO.
- **Right to rectification** – You have the right to obtain - without undue delay - the rectification or completion of your personal if it is incorrect or incomplete.

- **Right to erasure** – You have the right to require EASO to delete or stop processing your data, for example where the data is no longer necessary for the purposes of processing. In certain cases your data may be kept to the extent it is necessary, for example, to comply with a legal obligation of the Agency or if it is necessary for reasons of public interest in the area of public health.
- **Right to object** – If the Agency processes your data for the performance of a task in the public interest (without your consent or another lawful basis), you have the right to object to this processing on grounds related to your particular situation.
- **Right to restrict processing** – In a few, codified cases, you have the right to obtain the restriction of the processing, meaning that your data will only be stored, but not actively processed by the data controller for a limited period of time.

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 section 9 below.

The rights of the data subject can be exercised in accordance with the provisions of Regulation (EU) 2018/1725. The rights and obligations under Regulation (EU) 2018/1725 can be restricted if they would jeopardise the purpose of administrative inquiries, pre-disciplinary, disciplinary and suspension proceedings or would affect the rights and freedoms of other data subjects.

Please note that certain rights of data subjects involved in administrative enquiry or disciplinary proceedings may be restricted in accordance with Management Board Decision no. 64 of 6 July 2020 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 the Agency.² Such decisions will be taken strictly on a case by case basis. The Agency will document the reasons for taking such decision to demonstrate that the restriction is proportionate and necessary in line with the provisions of Regulation 2018/1725. The applicable legislation and the Implementing Rules (see Section 3 above) govern and address other procedural rights of subjects and participants of administrative inquiries and disciplinary procedures which are not related to personal data protection.

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, AdministrativeInquiries&DisciplinaryProcedures@easo.europa.eu.

The Data Protection Officer (DPO)

You may contact the EASO's Data Protection Officer (dpo@easo.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) 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.

² Available here: [https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32020Q0827\(01\)](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32020Q0827(01))