

<b>DATA CONTROLLER</b>	<b>eu-LISA</b> Executive Director Office Corporate Service Department/Legal Sector  Vesilennuki 5, 10415 Tallinn, Estonia <a href="mailto:director@eulisa.europa.eu">director@eulisa.europa.eu</a>
<b>DATA PROTECTION OFFICER (DPO)</b>	<a href="mailto:dpo@eulisa.europa.eu">dpo@eulisa.europa.eu</a>
<b>PURPOSE OF THE PROCESSING</b>	To handle administrative inquiries, pre-disciplinary proceeding, disciplinary proceedings and/or suspension proceedings.
<b>LEGAL BASIS</b>	Legal obligations imposed to eu-LISA in accordance with the Regulation (EEC, EURATOM, ECSC) No 259/68 of the Council of 29 February 1968
<b>RETENTION PERIOD</b>	2, 5 or 20 years, depending on the outcome of the process.
<b>OTHER RECIPIENTS OF THE DATA</b>	Designated personnel of eu-LISA  Other EU bodies involved in the investigation procedure (EDPS, OLAF, EPPO, etc.)
<b>RIGHTS YOU MAY EXERCISE THROUGH OUR DATA PROTECTION OFFICER</b>	<ul style="list-style-type: none"> <li>• Access to your data</li> <li>• Rectification of your data</li> <li>• Erasure of your data</li> <li>• Objection to the processing</li> <li>• Restriction of the processing</li> </ul>
<b>DATA PROTECTION AUTHORITY</b>	European Data Protection Supervisor  <a href="mailto:edps@edps.europa.eu">edps@edps.europa.eu</a>

## PROTECTION OF YOUR PERSONAL DATA

**This privacy statement provides information about the processing and the protection of your personal data**

### **1. Introduction**

The European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice (hereafter, 'eu-LISA') is committed to protect your personal data and to respect your privacy. eu-LISA 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 statement 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.

The information in relation to the processing operations in the context of '*Administrative inquiries, pre-disciplinary proceeding, disciplinary proceeding and/or suspension proceeding*' conducted by the Agency on its personnel in accordance with Article 86 and Annex IX of the Staff Regulations of Officials and Articles 49, 50(a) and 119 of the Condition of Employment of Other Servants of the European Union, is presented below.

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

The Executive Director Office and the Corporate Service Department/Legal Sector represented by the staff member appointed by AA collects and uses your personal information to ensure the duly and effective conduction of the administrative investigations required to clear up responsibilities and exercise disciplinary measures in response to the non-compliant actions of eu-LISA's personnel, as foreseen by the Staff Regulations of Officials of the European Union and the Conditions of Employment of Other Servants of the European Economic Community and the European Atomic Energy Community, is presented below.

In accordance with Annex IX of the Staff Regulations of Officials of the European Union, as well as the Decision No 2022-081 of the Management Board of eu-LISA of 24 March 2022 on laying down general implementing provisions on the conduct of administrative inquiries and disciplinary proceedings, any investigation process of this kind shall inevitably entail the processing of personal data of one or more eu-LISA's personnel or other persons, including the alleged perpetrator and the alleged victim and witness, when applicable. In this regard, eu-LISA must be able to process the identity of the alleged perpetrator, any circumstances related to the alleged breach of statutory obligations, and any other information that may be relevant for the investigation.

The purposes of the different steps of the processing are the following:

- **Administrative Inquiry:** The processing is necessary for the handling of administrative inquiries by the inquiry team appointed by the Executive Director in order to establish the facts and determine the individual responsibility of the person(s) concerned in respect of the facts and circumstances of a potential breach of obligations perpetrated by a staff member, national experts, persons employed under private law, contracts working on eu-LISA premises, or interns.
- **Pre-disciplinary proceeding:** The processing is necessary for the handling of pre-disciplinary proceedings by a person mandated by the Executive Director to conduct hearing(s) to assess potential breaches perpetrated by a staff member in consideration of the established facts and circumstances.
- **Disciplinary proceeding:** The processing is necessary for the handling of disciplinary proceedings involving or not the (Common) Disciplinary Board initiated by the Executive

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Director to assess the established facts and circumstances including, if appropriate, any relevant aggravating or extenuating circumstance and the alleged breaches of his/her obligations.

- **Protective measures for the alleged victims of harassment:** The processing is necessary for implementing appropriate and proportionate measures to protect the alleged victim of harassment and the witnesses requested to testify or to ensure the proper functioning of the organisational entity concerned.
- **Suspension proceeding:** The processing is necessary for the handling of suspension proceeding conducted by a person appointed by the Appointing Authority to conduct hearing with the person concerned to decide on the suspension for a specified or indefinite period

Your personal data will not be used for an automated decision-making including profiling.

Your personal data processed may be reused for the purpose of procedures before the EU Courts, national courts, or the European Court of Auditors.

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

We process your personal data, because:

*(a) 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;*

- Regulation (EU) 2018/1726 of the European Parliament and of the Council of 14 November 2018 on the European Union Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice (eu-LISA), and amending Regulation (EC) No 1987/2006 and Council Decision 2007/533/JHA and repealing Regulation (EU) No 1077/2011, and in particular Articles 19(1)(n) and 28 thereof
- Staff Regulations of Officials of the European Union, and in particular Articles 86 and Annex IX thereof, and the Conditions of Employment of Other Servants of the European Union laid down by Regulation (EEC, Euratom, ECSC) No 259/68 of the Council of 29 February 1968, and in particular Articles 49, 50(a) and 119 thereof;
- Decision No 2018/174 REV 1 of 06/12/2018 of the Management Board regarding eu-LISA policy on protecting the dignity of the person and preventing psychological harassment and sexual harassment;
- Decision No 2018-210 of 06/12/2018 of the Management Board of the European on the delegation of Appointing Authority powers from the Management Board to the Executive Director;
- Decision No 2022-081 of 24/03/2022 of the Management Board laying down general implementing provisions on the conduct of administrative inquiries and disciplinary proceedings;
- Decision of the Executive Director of the Agency of 10 December 2018 on the adoption of the eu-LISA Data Protection Guidelines on Administrative Inquiries.
- When applicable, service contract signed between eu-LISA and the external investigator(s).

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(b) *processing is necessary for compliance with a legal obligation to which the controller is subject;*

- Decision No 2022-081 of 24/03/2022 of the Management Board laying down general implementing provisions on the conduct of administrative inquiries and disciplinary proceedings;
- Decision No 2018/174 REV 1 of 06/12/2018 of the Management Board regarding eu-LISA policy on protecting the dignity of the person and preventing psychological harassment and sexual harassment;
- Staff Regulations of Officials of the European Union, and in particular Articles 86 and Annex IX thereof, and the Conditions of Employment of Other Servants of the European Union laid down by Regulation (EEC, Euratom, ECSC) No 259/68 of the Council of 29 February 1968, and in particular Articles 49, 50(a) and 119 thereof;

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

The personal data we collect and process for the listed purposes may relate to the following categories of data subjects:

- eu-LISA statutory staff;
- Other individuals working for eu-LISA (consultants, trainees, interims, experts)
- Contractors of eu-LISA providing goods and services
- Witnesses;
- Any other persons quoted in the file;
- Alleged victims (for example, of psychological harassment).

The information processed depends heavily on the circumstances of each potential infringement that may lead to an administrative inquiry, and the affected categories of data will, in consequence, vary considerably in each procedure. However, every such investigation process might entail the handling of the following categories of data:

- **Name, contact details and affiliation** (e.g. address, first name, surname, e-mail, phone number, citizenship).
- **e-Communication and/or connection data** (e.g. phone network, internet traffic, IP address, logs, user ID, user credentials, number of the caller and the time of the call).
- **Personal identification numbers** (e.g. national IDs/passports, staff ID).
- **Image, audio** (e.g. pictures, ID photo, CCTV record, video/audio recording).
- **Details on education, expertise, profession of the person** (e.g. CV, trainings)
- **Economic and financial details** (e.g. bank account details, expenses, reimbursements).
- **Family, lifestyle and social circumstances.**
- **Goods and services the person provides.**
- **Location data** (e.g. movements, GPS data, GSM).
- **Other personal data** (please detail below – e.g. in case data categories differ between different categories of persons, please explain – like data from statutory staff vs. non-staff person).
  - Other basic personal information about the categories of persons mentioned above, such as gender, age, name of line manager, hiring date, contractual category and grade, organisational entity.
  - Data which enables the persons involved in an administrative inquiry to be identified.
  - E-mails or other type of communications exchanged by the affected individuals.
  - Witness statements.
  - Names of the investigation panel members.
  - Data related to behaviour, action or inaction of persons under investigation, individual responsibility, including financial liability, sanctions imposed on the person concerned.

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- Information, such as allegations and declarations, provided during the inquiry by a staff member (temporary and contract agent), Seconded National Experts, external service providers, trainees, and/or witnesses.

At the same time, the processing of these categories of data may sometimes entail the processing of sensitive information, such as:

- **Racial or ethnic origin of the person:** if relevant for the purpose of the administrative inquiry
- **Political opinions or trade union membership:** if relevant for the purpose of the administrative inquiry
- **Religious or philosophical beliefs:** if relevant for the purpose of the administrative inquiry
- **Health data:** if relevant for the purpose of the administrative inquiry
- **Biometric data for unique identification** (e.g. hashes of fingerprint images, fingerprints template and not the actual image of the fingerprint)
- **Information regarding the person's sex life or sexual orientation**
- **Personal data relating to criminal convictions and offences or related security measures** (e.g. copies of the criminal records certificates)

The personal data is obtained either directly from the data subject (e.g. interviews, forms, etc.) or from other sources relevant for the investigation (e.g. documents, witness's statement, third party interviews, etc.), always in strict compliance of all privacy and guaranteeing the data subjects rights.

### 5. How long do we keep your personal data?

- **Administrative inquiries, pre-disciplinary and disciplinary proceedings**

Duplication of information in both, the personal and the inquiry/disciplinary file shall be avoided, as it would be detrimental to the legitimate interests of the person(s) concerned. Only the copies of the final decisions taken in the disciplinary proceeding shall be kept, taking into account the provisions of Article 27 of the Annex IX to the Staff Regulations concerning the request of deletion of such data, in the personal files.

The retention periods run from the date the file is closed. Should there be a business need, the term will be renewed upon notification to the DPO.

The inquiry and disciplinary files are kept for as long as necessary and as established below:

In case the administrative inquiry does not lead to a decision potentially negatively affecting the person concerned (inquiry closed without follow-up), where the files essentially contain the investigation report and the documents in view of which the decision was taken not to open disciplinary proceedings, the retention period is as follows:

#### At eu-LISA:

Categories of personal data	Data retention period (or criteria, if specific period cannot be specified)
General personal data	Two (2) years, unless otherwise indicated

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<b>Sensitive personal data</b>	Two (2) years, unless otherwise indicated
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**At external level:**

<b>Categories of personal data</b>	<b>Data retention period (or criteria, if specific period cannot be specified)</b>
<b>General personal data</b>	Six (6) months, unless otherwise indicated in the service contract
<b>Sensitive personal data</b>	Six (6) months, unless otherwise indicated in the service contract

In case the administrative inquiry leads to the initiation of pre-disciplinary proceeding (e.g. hearing of the person(s) concerned) but a decision is taken not to open a disciplinary proceeding (pre-disciplinary proceeding closed without follow-up), in which the files essentially contain the investigation report, the documents related to the pre-disciplinary proceeding and the decision not to open a disciplinary proceeding, the retention period is as follows:

**At eu-LISA:**

<b>Categories of personal data</b>	<b>Data retention period (or criteria, if specific period cannot be specified)</b>
<b>General personal data</b>	Two (2) years, unless otherwise indicated
<b>Sensitive personal data</b>	Two (2) years, unless otherwise indicated

**At external level:**

<b>Categories of personal data</b>	<b>Data retention period (or criteria, if specific period cannot be specified)</b>
<b>General personal data</b>	Six (6) months, unless otherwise indicated in the service contract
<b>Sensitive personal data</b>	Six (6) months, unless otherwise indicated in the service contract

For the cases where a disciplinary proceeding is concluded, irrespective of the outcome, in which the files contain the investigation report, the instruments of the disciplinary procedure, the correspondence with the person(s) concerned, the decision imposing or not a disciplinary measure and any follow-ups (appeals), the retention period is as follows:

**At eu-LISA:**

<b>Categories of personal data</b>	<b>Data retention period (or criteria, if specific period cannot be specified)</b>
<b>Disciplinary data<sup>1</sup></b>	Five (5) years, unless otherwise indicated

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<sup>1</sup> Data of the person concerned who suffered disciplinary sanctions.

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<b>Data in disciplinary file<sup>2</sup></b>	Twenty (20) years, unless otherwise indicated
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**At external level:**

<b>Categories of personal data</b>	<b>Data retention period (or criteria, if specific period cannot be specified)</b>
<b>General personal data</b>	Six (6) months, unless otherwise indicated in the service contract
<b>Sensitive personal data</b>	Six (6) months, unless otherwise indicated in the service contract

The only disciplinary decisions which can be kept in the personal file of the person(s) concerned are those in which the date can have an impact on the employment relations of the data subject with eu-LISA (e.g., the final disciplinary decision).

The decision of the Appointing Authority closing the disciplinary proceeding with no follow-up is not placed in the personal file of the person(s) concerned, unless the person(s) so requests.

Pursuant to Article 27 of the Annex IX to the Staff Regulations, a staff member against whom a disciplinary penalty other than removal from the post has been ordered may, after three (3) years in the case of a written warning or reprimand or after six (6) years in the case of any other penalty, submit a request for the deletion from his personal file of all reference to such measure. The Appointing Authority shall decide whether to grant this request. Reasons must be given for any refusal.

Depending on the severity of the misconduct, the disciplinary data [data of the person(s) concerned who suffered disciplinary sanctions] may be kept, without prejudice to Article 27 of the Annex IX to the Staff Regulations, for the following period:

**At eu-LISA:**

<b>Categories of personal data</b>	<b>Data retention period (or criteria, if specific period cannot be specified)</b>
<b>General personal data</b>	Five (5) years, unless otherwise indicated
<b>Sensitive personal data</b>	Five (5) years, unless otherwise indicated

**At external level:**

<b>Categories of personal data</b>	<b>Data retention period (or criteria, if specific period cannot be specified)</b>
<b>General personal data</b>	Six (6) months, unless otherwise indicated in the service contract
<b>Sensitive personal data</b>	Six (6) months, unless otherwise indicated in the service contract

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<sup>2</sup> Documents related to the disciplinary procedure.



- **Suspension proceedings**

In case the preliminary assessment does not lead to the initiation of a suspension proceeding, the retention period is as follows:

**At eu-LISA:**

<b>Categories of personal data</b>	<b>Data retention period (or criteria, if specific period cannot be specified)</b>
<b>General personal data</b>	Two (2) years, unless otherwise indicated
<b>Sensitive personal data</b>	Two (2) years, unless otherwise indicated

**Outside eu-LISA:**

<b>Categories of personal data</b>	<b>Data retention period (or criteria, if specific period cannot be specified)</b>
<b>General personal data</b>	Six (6) months, unless otherwise indicated in the service contract
<b>Sensitive personal data</b>	Six (6) months, unless otherwise indicated in the service contract

In case of a suspension proceeding, the retention period is as follows:

**At eu-LISA:**

<b>Categories of personal data</b>	<b>Data retention period (or criteria, if specific period cannot be specified)</b>
<b>General personal data</b>	Five (5) years, unless otherwise indicated
<b>Sensitive personal data</b>	Five (5) years, unless otherwise indicated

**At external level:**

<b>Categories of personal data</b>	<b>Data retention period (or criteria, if specific period cannot be specified)</b>
<b>General personal data</b>	Six (6) months, unless otherwise indicated in the service contract
<b>Sensitive personal data</b>	Six (6) months, unless otherwise indicated in the service contract

This provision can be extended until the end of the career of the staff member when duly justified. The retention periods run from the date the file is closed. Should there be a business need, the term will be renewed upon notification to the DPO.

After the retention period expires, personal data will be deleted.



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When determining the maximum retention periods, the Agency takes also into account possible legal recourses, legal, auditing, archiving and reporting obligations.

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

Access to your personal data is provided to eu-LISA staff responsible for carrying out this processing operation and to authorised staff according to the “need to know” principle. Such staff abide by statutory, and when required, additional confidentiality agreements. In particular, access to your personal data is provided to:

- Within eu-LISA: The Executive Director, the inquiry team, the Legal Sector (if needed), designated staff members from HRU, the appointed person to carry out the pre-disciplinary and disciplinary proceeding not involving a disciplinary board. In the situation of a disciplinary proceeding involving a disciplinary board: the appointed members of the (common) disciplinary board and its appointed secretariat of the disciplinary board.
- Outside eu-LISA:
  - If applicable, the appointed external investigators;
  - If applicable, the external disciplinary board;
  - Bodies and institutions in charge of monitoring, audit, inspection tasks [e.g. the Commission’s internal Audit Services (IAS), European Court of Auditors (ECA), European Data Protection Supervisor (EDPS), European Public Prosecutor Office (EPPO), European Anti-Fraud Office (OLAF).
- Designated external service providers.
- Pursuant to Article 9 of the Regulation (EU) 2018/1725, without prejudice to Articles 4 to 6 and 10 of the same Regulation, personal data shall only be transmitted to recipients established in the Union other than Union institutions and bodies if:
  - a) the recipient establishes that the data are necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the recipient; or
  - b) the recipient establishes that it is necessary to have the data transmitted for a specific purpose in the public interest and the controller, where there is any reason to assume that the data subject’s legitimate interests might be prejudiced, establishes that it is proportionate to transmit the personal data for that specific purpose after having demonstrably weighed the various competing interests.

The information we collect will not be given to any third party, except to the extent and for the purpose we may be required to do so by law. The information will not be transmitted out of the territory of the European Economic Area.

### **7. What are your rights and how can you exercise them?**

You have specific rights as a ‘data subject’ under Chapter III (Articles 14-25) of Regulation (EU) 2018/1725, in particular:

- **Right of access:** As a person concerned, you may request a copy of the conclusions of the investigation and all documents directly linked to the allegations made. Witnesses do not have the right to access the file in any circumstance.
- **Right to rectification:** You may request eu-LISA to update or correct any of your personal data processed for the purposes of administrative inquiry, pre-disciplinary proceeding, disciplinary proceeding and/or suspension proceeding.
- **Right to erasure:** You may request eu-LISA to delete any of your personal data that is being processed in regards to administrative inquiry, pre-disciplinary procedure, disciplinary procedure and suspension procedure as long as the conditions laid out in Article 19 of Regulation 2018/1725 are met.

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- **Right to restriction:** You may request eu-LISA to restrict the processing of your personal data on the conditions laid out in Article 20 of Regulation 2018/1725.
- **Right to objection:** You may object to the processing of your personal data as described in the present privacy statement. In such case, eu-LISA shall only continue with the processing of your personal data if it demonstrates compelling legitimate grounds for overriding your interests.

Nevertheless, you should be informed that by virtue of Article 25 of Regulation No 2018/1725 and of the Internal Rules laid down under Decision No 2021-096 of the Management Board on internal rules concerning restrictions of certain rights of data subjects in relation to the processing of personal data in the framework of the functioning of eu-LISA, one or several of these rights (e.g., information, access or rectification) may be restricted for a temporary period of time inter alia on the grounds of prevention, investigation, detection and prosecution of criminal offences, other important objectives of general public interest of the Union or of a Member State, in particular the objectives of the common foreign and security policy of the Union or an important economic or financial interest of the Union or of a Member State, including monetary, budgetary and taxation matters, public health and social security, the prevention, investigation, detection and prosecution of breaches of ethics for regulated professions, or the protection of the data subject or the rights and freedoms of others.

For example, informing the person under investigation about the inquiry or the disciplinary proceeding at an early stage may be detrimental to the investigation. In these cases, eu-LISA might need to restrict the information to the person under investigation to ensure that the inquiry or disciplinary proceeding is not jeopardised. Other example, the right of access of a person under investigation to the identity of a witness may be restricted in order to protect the witness' rights and freedoms.

Any such restriction will be limited in time, proportionate and respect the essence of the abovementioned rights. It will be lifted as soon as the circumstances justifying the restriction are no longer applicable. You will receive a more specific data protection notice when this period has passed.

As a general rule, you will be informed on the principal reasons for a restriction unless this information would cancel the effect of the restriction as such.

You have the right to make a complaint to the EDPS concerning the scope of the restriction.

You can exercise your rights by contacting the Data Controller, or in case of conflict the Data Protection Officer ([dpo@eulisa.europa.eu](mailto:dpo@eulisa.europa.eu)). If necessary, you can also address the European Data Protection Supervisor.

### **8. 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 at [director@eulisa.europa.eu](mailto:director@eulisa.europa.eu).

#### **- The Data Protection Officer of eu-LISA**

You may contact the Data Protection Officer ([dpo@eulisa.europa.eu](mailto:dpo@eulisa.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](mailto: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.