

**RECORD OF PROCESSING ACTIVITY
ACCORDING TO ARTICLE 31 REGULATION 2018/1725¹
NOTIFICATION TO THE DATA PROTECTION OFFICER**

NAME OF PROCESSING OPERATION²: Handling of requests and complaints submitted under Article 90 of the Staff Regulations

DPR-2023-186 (to be completed by the DPO)
Creation date of this record: 23/05/2023
Last update of this record:
Version: 1

1) Controller(s)³ of data processing operation (Article 31.1(a))
Controller: European Union Agency for Fundamental Rights (FRA) Schwarzenbergplatz 11, A-1040 Vienna, Austria Telephone: +43 1 580 30 – 0 Email: contact@fra.europa.eu Organisational unit responsible⁴ for the processing activity: Corporate Services Unit Contact details: legal@fra.europa.eu Data Protection Officer (DPO): dpo@fra.europa.eu

2) Who is actually conducting the processing? (Article 31.1(a))⁵
The data is processed by FRA itself <input checked="" type="checkbox"/>
The data may also be processed by a third party (contractor) when recourse is made to external legal services, provided under a contract for services, or by DG HR of the

¹ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32018R1725>

² **Personal data** is any information relating to an identified or identifiable natural person, i.e. someone who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity. This information may, for example, be the name, date of birth, a telephone number, biometric data, medical data, a picture, professional details, etc.

Processing means any operation or set of operations which is performed on personal data, whether or not by automatic means, such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction.

³ In case of more than one controller (e.g. joint FRA research), all controllers need to be listed here

⁴ This is the unit that decides that the processing takes place and why.

⁵ Is the FRA itself conducting the processing? Or has a provider been contracted?

European Commission when the handling of the request/complaint is outsourced to DG HR under the Service Level Agreement between FRA and DG HR.

3) Purpose of the processing (Article 31.1(b))

Why are the personal data being processed? Please provide a very concise description of what you intend to achieve with the processing operation. Specify the rationale and underlying reason for the processing and describe the individual steps used for the processing. If you do this on a specific legal basis, mention it as well (e.g. staff regulations for selection procedures).

Scope

In accordance with Article 90(1) of the Staff Regulations (hereinafter “SR”), any person to whom the SR apply may submit a request to the Appointing Authority, asking that it take a decision relating to them.

In accordance with Article 90(2) SR, any person to whom the SR apply may submit to the Appointing Authority a complaint against an act adversely affecting them, either where the said authority has taken a decision or where it has failed to adopt a measure prescribed by the SR (an implied decision rejecting the measure).

The Appointing Authority powers are exercised at different levels depending on the subject matter:

- a) The Management Board exercises the Appointing Authority powers with regard to the Director of FRA.
- b) In its decision 2022/07, the Management Board delegated the powers of the Appointing Authority vis-à-vis other staff to the Director, with the possibility for the Director to sub-delegate (some of) these powers.
- c) Director’s Decision 2023/001 defines the further sub-delegations of Appointing Authority powers.

The present record concerns requests under Article 90(1) SR to the Director or to the Appointing Authority by sub-delegation under Director’s Decision 2023/001. It also concerns complaints under Article 90(2) SR where the contested decision was taken by sub-delegation at a level below that of the Director.

Complaints against a decision taken at the level of the Director are handled by the Appeals Committee and are covered by a separate data protection record.

Process

Persons wishing to submit either a request to the Appointing Authority to adopt a measure (Article 90(1) SR request) or a complaint against a decision or a failure to adopt a measure prescribed SR (Article 90(2) complaint) (together referred to as an “Article 90”) should send their Article 90 to the dedicated functional mailbox legal@fra.europa.eu. Any Article 90 received by other means, even if not explicitly named as such, shall be forwarded by the recipient to the aforementioned functional mailbox without delay.

The Article 90 will be assigned to a designated staff member in Corporate Services. That designated lawyer will register the Article 90 and acknowledge receipt. The designated staff member will prepare a draft reply for consideration by the Director/Appointing Authority. In doing so, they may need to consult with relevant services to verify the factual background and may make recourse to external legal advice. In such cases, access to

any personal information by persons consulted shall be as limited as possible to the extent necessary to reply to the request/complaint. The final reply will be sent to the requestor/complainant by or on behalf of the Appointing Authority and the designated staff member in Corporate Services will be responsible for filing the reply sent in accordance with the retention policy.

In the event that the Appointing Authority rejects the complaint or request, the staff member affected may appeal to the Court of Justice of the EU or have recourse to the European Ombudsman within the prescribed time limits.

4) Description of the categories of data subjects (Article 31.1(c))

Whose personal data are being processed?

FRA staff: staff members (TA/CA)

Non-FRA staff: Other persons subject to the EU Staff Regulations: applicants in a selection procedure, former staff members

5) Categories of personal data processed (Article 31.1(c))

Please tick all that apply and give details where appropriate. Include information if automated decision making takes place, evaluation and monitoring

The following categories of personal data are processed for all Article 90s:

(a) General personal data

Personal details: name, surname

Contact details: email address of the requestor/complainant

In addition, some of the following categories of personal data may be processed, to the extent relevant for and/or if provided by the requestor/complainant in the Article 90, depending on the subject matter:

- Additional contact details (address, phone number), details on current job, education and prior professional experience, information on entitlements to allowances and benefits, family and social circumstances.

(b) Special categories of personal data (Article 10)

Some of the following special categories of personal data may be processed, to the extent relevant for and/or if provided by the requestor/complainant in the Article 90, depending on the subject matter of the Article 90:

- Information on race or ethnic origin, health, political opinions, religious or philosophical beliefs, trade union membership, sexual orientation.

(c) **Personal data relating to criminal convictions and offences** (Article 11)

6) Recipient(s) of the data (Article 31.1 (d))⁶

*Recipients are all parties who have access to the personal data. Who will have access to the data **within** FRA? Who will have access to the data **outside** FRA? No need to mention entities that may have access in the course of a particular investigation (e.g. OLAF, EO, EDPS).*

Designated **FRA** staff members

Access is limited to the designated staff in Corporate Services responsible for the handling of Article 90s, and to the Appointing Authority. If, in the course of preparing a reply, the assigned lawyer needs to consult other internal services to verify the factual situation (e.g. HR, the line manager), the sharing of information with such persons will be limited to the extent strictly necessary for proper handling of the Article 90 and documents will be anonymised where possible.

Designated persons **outside** FRA: (please specify)

External lawyer(s) engaged by FRA under a contract for services may be requested to provide legal support in some cases. External lawyer(s) are bound by the confidentiality and data protection clauses included in the respective service contract. The legal services of the European Commission, under the SLA with DG HR, may be requested to provide legal support. They are bound by the data protection clauses included in the SLA and by Regulation 2018/1725.

Access will be limited to the personal data necessary to handle the complaint and documents will be anonymised where possible.

7) Transfers to third countries or recipients outside the EEA (Article 31.1 (e))⁷

If the personal data are transferred outside the European Economic Area, this needs to be specifically mentioned, since it increases the risks of the processing operation.

Data are transferred to third country recipients:

Yes

No

⁶ No need to mention entities that may have access in the course of a particular investigation (e.g. OLAF, EO, EDPS).

⁷ **Processor** in a third country using standard contractual clauses, a third-country public authority you cooperate with based on a treaty. If needed, consult your DPO for more information on how to ensure safeguards.

8) Retention time (Article 4(e))

How long will the data be retained and what is the justification for the retention period? Please indicate the starting point and differentiate between categories of persons or data where needed (e.g. in selection procedures candidates who made it onto the reserve list vs. those who didn't). Are the data limited according to the adage "as long as necessary, as short as possible"?

FRA applies the Common Commission Level Retention List ([current version SEC\(2019\)900/3](#)), which provides for a retention period of 15 years. After this time, the file will be either fully anonymised (if deemed relevant to preserve institutional knowledge and jurisprudence) or destroyed.

9) Technical and organisational security measures (Article 31.1(g))

Please specify where/how the data are stored during and after the processing; please describe the security measures taken by FRA or by the contractor

How is the data stored?

- | | |
|--|-------------------------------------|
| FRA network shared drive | <input type="checkbox"/> |
| FRA DMS (access is restricted to individual staff designated to handle Article 90 files) | <input checked="" type="checkbox"/> |
| Outlook Folder(s) (access is restricted to individual staff designated to handle Article 90 files) | <input checked="" type="checkbox"/> |
| CRM | <input type="checkbox"/> |
| Hardcopy file (in locked safes) | <input checked="" type="checkbox"/> |
| Cloud (MS 365 record link) | <input checked="" type="checkbox"/> |
| Servers of external provider | <input type="checkbox"/> |
| Other (please specify: | <input type="checkbox"/> |

10) Exercising the rights of the data subject (Article 14 (2))

How can people contact you if they want to know what you have about them, want to correct or delete the data, have it blocked or oppose to the processing? How will you react?

See further details in the Data Protection notice

Data subject rights

- Right of access
- Right to rectification
- Right to erasure (right to be forgotten)
- Right to restriction of processing
- Right to data portability
- Right to object
- Notification obligation regarding rectification or erasure of personal data or restriction of processing
- Right to have recourse
- Right to withdraw consent at any time

Part 2 – Compliance check and risk screening (internal)

11) Lawfulness of the processing (Article 5(a)–(d))⁸: Processing necessary for:

Mention the legal basis which justifies the processing and assess that the purposes specified are purposes specified, explicit, legitimate.

⁸ Tick (at least) one and explain why the processing is necessary for it. Examples:

(a) a task attributed to your EUI by legislation, e.g. procedures under the staff regulations or tasks assigned by an Agency's founding regulation. Please mention the specific legal basis (e.g. "Staff Regulations Article X, as implemented by EUI IR Article Y", instead of just "Staff Regulations")

(a2) not all processing operations required for the functioning of the EUIs are explicitly mandated by legislation; recital 17 explains that they are nonetheless covered here, e.g. internal staff directory, access control.

(b) a specific legal obligation to process personal data, e.g. obligation to publish declarations of interest in an EU agency's founding regulation.

(c) this is rarely used by the EUIs.

(d) if persons have given free and informed consent, e.g. a photo booth on EU open day, optional publication of photos in internal directory;

(e) e.g. processing of health information by first responders after an accident when the person cannot consent.