

DATA PROTECTION NOTICE

regarding the processing of personal data in the context of administrative inquiries and disciplinary proceedings for which the Administrative Director is the Appointing Authority

As Eurojust collects and further processes personal data, it is subject to *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, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC* ('Regulation (EU) 2018/1725).

The following information is provided as per Article 15 of Regulation (EU) 2018/1725.

1. Context of the processing activity and Controller

Eurojust collects and further processes personal data in the context of administrative inquiries and disciplinary proceedings. Collection and processing of personal data in the context of administrative inquiries and disciplinary proceedings are under the responsibility of the controller. As far as the Administrative Director of Eurojust is dealing with administrative inquiries and disciplinary procedures for which he/she is the appointing authority, the Administrative Director is the controller and can be contacted at administrative.director@eurojust.europa.eu. Both the Administrative Director and his administrative assistant have access to that mailbox.

2. What personal information do we collect, for what purpose, under which legal bases and through which technical means?

Purpose of the processing

The purpose of this processing is to analyse the collected information in order to establish the facts and circumstances of the case, with a view to determining whether there is a breach of the obligations under the Staff Regulations. This processing may take place in any stage of the proceedings (preliminary assessment, administrative inquiry, pre-disciplinary proceedings, disciplinary proceedings or suspension proceedings) as applicable.

Types of personal data

The following categories of personal data are processed in the context of the above mentioned processing activity: name, surname, address, age, hiring date, contact details, information regarding your career, allegations, declarations, special categories of personal data (such as data concerning health, e-mails exchanged by the affected individuals with trade unions or with the EU Sickness insurance scheme, etc.) if and where strictly necessary, relevant and proportionate. Eurojust may also collect personal data concerning other persons who could bring information relevant to the case (such as witness[es]).

Legal basis

The legal bases for the processing activities are:

- Article 5(1)(b) of Regulation EU 2018/1725: processing is necessary for compliance with a legal obligation to which the controller is subject;
- Article 10(2)(b) of Regulation EU 2018/1725: 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;

- Article 10(2)(f) of Regulation EU 2018/1725: the processing is necessary for the establishment, exercise or defence of legal claims or whenever the Court of Justice is acting in its judicial capacity;
- Article 86 of the Staff Regulations¹ and its Annex IX;
- Articles 50a and 119 of the Conditions of Employment of Other Servants;
- Executive Board Decision 2022-03 of 13 June 2022 laying down general implementing provisions on the conduct of administrative inquiries and disciplinary proceedings.

Technical means

Technical measures include storing and sharing the files electronically in a restricted area of the Document Management System.

Organisational measures include the use of locked closets, confidential settings in the emails, printing with badging and encryption/password protection of documents in accordance with Decision 2021-28 of the Administrative Director adopting rules on the transmission of administrative personal data by email to external recipients and internally within Eurojust.

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

Upon receiving information indicating a possible breach of statutory obligations, Eurojust (usually a limited number of authorised staff members in the Legal Affairs Unit) may have access to your personal data in order to carry out a preliminary assessment of the information and accompanying evidence. Where required, the authorised staff member of the Legal Affairs Unit may request from the relevant entity at Eurojust or from the source of the initial information, complementary factual information which is adequate, directly relevant and strictly necessary to conduct the preliminary assessment.

On an exceptional basis (e.g. cases of conflict of interests), the preliminary assessment may be carried out externally by an independent investigator (e.g. from the inter-agency pool of investigators) where the circumstances so require. This might require transmitting certain information and accompanying evidence (where relevant, necessary and proportionate) to an independent (external) investigator on the basis of Article 5(1)(a) of the Regulation (EU) 2018/1725. In such cases, Eurojust may need to restrict the application of Articles 14 to 22 (e.g. right to be informed)(see Article 25 of Regulation (EU) 2018/1725 and Articles 2(1)(a) and (e) of College Decision 2020-04 of 15 July 2020 on internal rules concerning restrictions of certain data subject rights in relation to the processing of personal data in the framework of activities carried out by Eurojust).

On the basis of this preliminary assessment, the Appointing Authority, shall decide whether the case warrants a follow-up.

Personal data processed in the context of administrative inquiries and disciplinary proceedings may be disclosed to the Administrative Director and to a limited number of authorised persons involved in the process (i.e. from the Legal Affairs Unit, the Human Resources Unit where necessary, external investigators and members of the Disciplinary Board where applicable) with a legitimate 'need to know' for the purposes of this processing operation to the extent necessary to perform their tasks. They are bound by an obligation of confidentiality with respect to any information which has come to their knowledge in the course of the performance of their tasks in the context of this data processing activity.

Should procedural advice be required in disciplinary matters, the controller may decide to make use of the services of the Directorate Investigation & Disciplinary Office (IDOC) who will act as a Helpdesk on the basis of the Service Level Agreement signed with Eurojust (Ref. Ares(2018)429477 - 24/01/2018 as amended, Appendix IDOC). Where possible, in the cases seeking the procedural advice, the documents, shared with the services of IDOC, will be anonymised.

If the staff member concerned contests the disciplinary decision, the disciplinary file may be referred to the Court of Justice of the European Union. Data may be sent to the Ombudsman, if the staff member concerned addresses a complaint.

4. How do we protect and safeguard your information?

Organisational measures include the use of locked closets, confidential settings in the emails, printing with badging and encryption/password protection of documents in accordance with Decision 2021-28 of the Administrative Director adopting rules on the transmission of administrative personal data by email to external recipients and internally within Eurojust.

All processing operations are carried out pursuant to existing policies describing strict access control to different Eurojust applications. The inquiry team, including the external investigators, and members of the Disciplinary Board shall sign a declaration of absence of conflict of interests and on confidentiality.

5. How can you verify, modify or delete your information?

You have the right to access your personal data and to relevant information concerning how we use your personal data. You have the right to request rectification of your personal data. You have the right to ask that we delete your personal data or restrict its use. Where applicable, you have the right to object to our processing of your personal data, on grounds relating to your particular situation. Where applicable, you have the right to your data portability. We will consider your request, take a decision, and communicate it to you. For more information, please see Articles 14 to 21, 23 and 24 of Regulation (EU) 2018/1725. Please note that in some cases restrictions under Article 25 of Regulation (EU) 2018/1725 may apply (see College Decision 2020-04 of 15 July 2020 on internal rules concerning restrictions of certain data subjects' rights in relation to the processing of personal data in the framework of activities carried out by Eurojust, available on the Eurojust website [here](#)).

To exercise your rights, please contact the Administrative Director of Eurojust at administrative.director@eurojust.europa.eu.¹

6. How long do we keep your personal data?

Pre-inquiry file: Files which have not led to the opening of an administrative inquiry are kept for 2 years from the decision of the Appointing Authority not to open an administrative inquiry.

Inquiry and disciplinary files are kept for as long as necessary in case of repeated misconduct, to comply with requests from judicial authorities and to allow a harmonised application of the Staff Regulations, subject to a maximum period of 5 years for inquiry files and 10 years for disciplinary files, counting from the date of the decision of the Appointing Authority.

These files will be kept by the Legal Affairs Unit in compliance with the technical and organisational measures mentioned under sections 2 and 4 above, in order to ensure a harmonized application of the Staff Regulations and the compliance with data protection requirements (e.g. storage retention, etc.).

¹ See section 1 regarding the persons with access to this mailbox.

The compliance with data protection requirements, in respecting data retention periods indicated in this section, for the information, received in the context of a specific administrative inquiry/disciplinary proceeding via the mailbox administrative.director@eurojust.europa.eu will be ensured by the administrative assistant to the Administrative Director.

Where on the basis of the inquiry report no disciplinary proceedings are open but a warning (*mise en garde/caution*) is issued by the Appointing Authority in accordance with Article 3(1)(b) of Annex IX to the Staff Regulations, this non-disciplinary measure shall be inserted in the personal file of the person concerned. The personal files are stored and managed by the Human Resources Unit of Eurojust in accordance with the data protection rules applicable to Eurojust. After 18 months of the date of the warning, the person concerned may ask the Appointing Authority to have it removed from his/her personal file. In the absence of a request for removal from the personal file, the warning will remain in the personal file for as long as it remains in the inquiry file (a maximum of 5 years from the date of the decision of the Appointing Authority).

Where disciplinary proceedings are open without referral to a Disciplinary Board and a written warning or reprimand (disciplinary sanction) is issued by the Appointing Authority (Article 11 of Annex IX of the SR and Articles 28 to 30 of Executive Board Decision 2022-03), this disciplinary sanction shall be placed in the personal file of the person concerned. At the request of the person concerned, the Appointing Authority may decide to remove the sanction from the personal file after 3 years. In the absence of a request for removal from the personal file, the written warning or reprimand will remain in the personal file for as long as it remains in the disciplinary file (a maximum of 10 years from the date of the decision of the Appointing Authority).

Where as a result of the disciplinary proceedings before the Disciplinary Board no disciplinary sanction is imposed by the Appointing Authority on the staff member concerned, a copy of the disciplinary decision shall not be stored in the personal file, unless the staff member concerned so requests (Article 22 of Annex IX to the Staff Regulations). If, upon request by the staff member concerned, the decision of the Appointing Authority is stored in the personal file, this decision shall be deleted from the personal file when the retention period for the disciplinary file expires.

Where as a result of the disciplinary proceedings before the Disciplinary Board a disciplinary sanction is imposed by the Appointing Authority, a copy of the disciplinary decision is retained in the personal file for a maximum of 10 years unless the person concerned requests deletion from the personal file in accordance with Article 27 of Annex IX to the Staff Regulations. At the request of the person concerned, the Appointing Authority may decide to remove the disciplinary sanction (other than removal from post) from the personal file after 3 years from the date of the decision of the Appointing Authority (in case of written warning or reprimand) or after 6 years (for any other penalty). If following a request by the person concerned, the disciplinary decision is deleted from the personal file, the related disciplinary file shall also be deleted. In the absence of a request for removal from the personal file, the disciplinary sanction will remain in the personal file for as long as it remains in the disciplinary file (a maximum of 10 years from the date of the decision of the Appointing Authority).

7. Contact information

In case of queries regarding the processing of personal data you may also contact the Data Protection Officer of the Eurojust (dpo@eurojust.europa.eu).

8. Recourse

You have the right to lodge a complaint to the European Data Protection Supervisor via the email edps@edps.europa.eu or https://edps.europa.eu/data-protection/our-role-supervisor/complaints_en if you consider that your rights under Regulation (EU) 2018/1725 have been infringed as a result of the processing of your personal data.