



RECORD OF A PERSONAL DATA PROCESSING ACTIVITY

according to Article 31 of [Regulation \(EU\) 2018/1725](#)

Title
Whistle-blower protection in the context of the reporting of suspicions of fraud, corruption or other serious professional failure inside EFSA

1) Controller(s) of data processing activity (Article 31.1(a))
<p>EFSA unit in charge of the processing activity: Legal Affairs Services Unit (LA)</p> <p>EFSA Data Protection Officer (DPO): DataProtectionOfficer@efsa.europa.eu</p> <p>Is EFSA a co-controller? No</p> <p>If yes, indicate who is EFSA's co-controller:</p>

2) Who is actually conducting the processing? (Article 31.1(a))
<p>The data is processed by EFSA itself <input checked="" type="checkbox"/></p> <p><i>Indicate the EFSA units or teams involved in the data processing:</i></p> <p>The LA Unit as controller can be contacted writing to ethics-integrity@efsa.europa.eu (for Article 24 requests) or to legal@efsa.europa.eu (for Article 90(2) complaints).</p> <p>The processing operation is conducted together with an external party <input type="checkbox"/></p> <p><i>Please provide below details on the external involvement:</i></p>

3) Purpose of the processing (Article 31.1(b))
<p>To provide adequate protection to a whistle-blower who in good faith reports facts which (s)he honestly and reasonably believes suggest the existence of serious misconduct inside EFSA in the sense of Art. 22a(1) of the Staff Regulations. As appropriate, the protection may extend to the confidentiality of his/her identity.</p>

4) Legal basis and lawfulness of the processing (Article 5(a)–(d)):
<i>Processing necessary for:</i>
<p>(a) a task carried out in the public interest or in the exercise of official authority vested in EFSA <input checked="" type="checkbox"/></p> <p>(b) compliance with a legal obligation to which EFSA is subject <input checked="" type="checkbox"/></p> <p>(c) performance of a contract with the data subject or to prepare such contract</p>

	<input type="checkbox"/>
(d) The data subject has given consent (ex ante, explicit, informed)	<input type="checkbox"/>
 <i>Further details on the legal basis:</i>	
<ul style="list-style-type: none"> • Article 22(c) in conjunction with Article 24 and Article 90(2) of the Staff Regulations • Decision of the EFSA Management Board on implementing rules laying down guidelines on whistleblowing, ref. mb180620-a4, dated 21/06/2018 • SOP-037-A on handling complaints submitted by whistle-blowers 	

5) Description of the categories of data subjects (Article 31.1(c))	
<i>Whose personal data are processed?</i>	
EFSA statutory staff	<input checked="" type="checkbox"/>
Other individuals working for EFSA (consultants, trainees, interims, experts)	<input checked="" type="checkbox"/>
Stakeholders of EFSA, including Member State representatives	<input type="checkbox"/>
Contractors of EFSA providing goods and services	<input type="checkbox"/>
The general public, including visitors, correspondents, enquirers	<input type="checkbox"/>
Relatives of the data subject	<input type="checkbox"/>
Other categories of data subjects (please detail below)	<input type="checkbox"/>
 <i>Further details concerning the data subjects whose data are processed:</i>	
<p>The whistle-blower protection formally applies only to EFSA statutory staff, however, by extension, EFSA undertakes to protect Seconded National Experts (SNE's), trainees and interim and local staff at EFSA against retaliation if they denounce facts in good faith in accordance with arrangements in place for statutory staff.</p> <p>Also the accused person(s) are data subjects and shall in principle enjoy protection before and during the inquiry in the same way as the whistle-blower to avoid stigmatisation and victimisation. For further detail specifically on the position of the accused person, please refer to the record on data processing in the context of administrative inquiries and disciplinary proceedings.</p>	

6) Type of personal data processed (Article 31.1(c))	
a) General personal data	
The personal data concerns:	
Name, contact details and affiliation	<input checked="" type="checkbox"/>
Details on education, expertise, profession of the person	<input checked="" type="checkbox"/>
Curriculum vitae	<input type="checkbox"/>
Financial details	<input type="checkbox"/>
Family, lifestyle and social circumstances	<input type="checkbox"/>

Goods and services the person provides	<input type="checkbox"/>
Other personal data (please detail):	<input type="checkbox"/>
b) Sensitive personal data (Article 10)	
The personal data reveals:	
Racial or ethnic origin of the person	<input type="checkbox"/>
Political opinions or trade union membership	<input type="checkbox"/>
Religious or philosophical beliefs	<input type="checkbox"/>
Health data or genetic or biometric data	<input type="checkbox"/>
Information regarding the person's sex life or sexual orientation	<input type="checkbox"/>
<i>Further details concerning the personal data processed:</i>	
<ul style="list-style-type: none"> • The identity of the whistle-blower which may need to be protected, meaning that his/her name will not be revealed. • Other data related to the status of the staff member, his/her specific position or responsibilities from which (s)he may be indirectly identifiable, may be at stake also. 	

7) Recipients of the data (Article 31.1(d))	
Line managers of the data subject	<input checked="" type="checkbox"/>
Designated EFSA staff members	<input checked="" type="checkbox"/>
Other recipients (<i>please specify</i>):	<input checked="" type="checkbox"/>
The recipients depend on the reporting channel used to report the misconduct or failure:	
<ul style="list-style-type: none"> • 1st option: the whistle-blower's immediate superior or the EFSA Executive Director; • 2nd option: if there is concern that such disclosure may lead to retaliation and/or the recipient may be personally implicated, reporting to the Head of Business Services Department, the Ethics Advisor, the Executive Director, the Chair of the Management Board or to OLAF; • 3rd option: as a last resort, and if no appropriate action is taken by the legal deadline, the whistle-blower can address to another EU institution (e.g. the President of the Council or the European Parliament or the Court of Auditors, or the European Ombudsman). 	
In any case, the recipient is in turn obliged to transmit the information thus received without delay to OLAF.	
Furthermore:	
<ul style="list-style-type: none"> • The LA Unit is in charge of following up on a whistle-blower's request for assistance in accordance with Article 24 of the Staff Regulations or a complaint filed in accordance with Article 90(2) of the Staff Regulations. The application of these protective measures thus requires the identification by the person him/herself as a whistle-blower. The protection offered may reduce the need and justification for the whistle-blower's anonymity. • If needed, the LA Unit may request contributions/feedback by other units in strict confidence. 	

- The ED receives the draft reply and draft explanatory note from LA on the proposed EFSA position for his approval.

The whistle-blower may also request confidential guidance from the Human Capital Unit and/or may consult his/her line manager or the EFSA Ethics Adviser.

8) Transfers to recipients outside the EEA (Article 31.1 (e))

Data are transferred to third country recipients:

Yes No

If yes, specify to which third country:

If yes, specify under which safeguards:

- | | |
|--|--------------------------|
| Adequacy Decision of the European Commission | <input type="checkbox"/> |
| Standard Contractual Clauses | <input type="checkbox"/> |
| Binding Corporate Rules | <input type="checkbox"/> |
| Memorandum of Understanding between public authorities | <input type="checkbox"/> |

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

How is the data stored?

- | | |
|--|-------------------------------------|
| On EFSA's Document Management System (DMS) | <input checked="" type="checkbox"/> |
| On a shared EFSA network drive or in an Outlook folder | <input type="checkbox"/> |
| In a paper file | <input type="checkbox"/> |
| Using a cloud computing solution (please detail the service provider and main characteristics of the cloud solution, e.g. public, private) | <input type="checkbox"/> |
| On servers of an external service provider | <input type="checkbox"/> |
| On servers of the European Commission or of another EU Institution | <input type="checkbox"/> |
| In another way (<i>please specify</i>): | <input type="checkbox"/> |

Please provide some general information on the security measures applied:

- As concerns EFSA: the follow-up by LA Unit on the whistle-blower's request or complaint in accordance with respectively Article 24 and Article 90(2) SR, is documented in secure and confidential folders in EFSA's document management system (DMS);
- For OLAF: data on cases denounced to and handled by OLAF is stored securely under its files on which the institution may provide more information upon request;

- For other EU Institutions: the duty of discretion, protection of whistle-blowers and EU data protection rules continue to apply, subject to their applicable implementing rules.

10) Retention period (Article 4.1 (e))

Only information directly relevant to the misconduct and the resulting enquiry shall be maintained. Any personal information not directly relevant shall be promptly erased and not further processed.

If no administrative inquiry is opened, the information shall be deleted as soon as possible.

In case an inquiry is opened, the information can be kept for as long as the inquiry is ongoing. In any case, personal data related to the whistle-blowing should be deleted promptly and normally within two months of closure of the inquiry.

11) Consultation with the Information Security Officer

Was the ISO consulted on the processing operation ?

Yes No

If yes, please provide some details on the consultation with the ISO:

12) Information given to data subjects (Articles 15 and 16)

Has information been provided to data subjects on the way their data is processed including how they can exercise their rights (access, rectification, objection, data portability)? Usually this information is provided in a Privacy Statement, specifying the controller's contact details. As possible, please provide a link to the relevant Privacy Statement or a description.

OLAF or EFSA must give the whistle-blower within 60 days of receipt of the information an indication of the time period that it considers reasonable and necessary to take appropriate action.

Without prejudice to any application of restrictions to the right of access and any of the other related data subject's rights to ensure proper case handling and in application of the Decision of the EFSA Management Board on internal rules concerning restrictions of certain rights of data subjects, a whistle-blower may request access, rectification or erasure of his/her personal data in the context of the procedure, by sending a request by email to the controller.

As concerns the accused person, informing him/her in an early stage of the investigation may be detrimental to the investigation. For this reason restrictions may be applied with regard to the right of access and other data subject's rights laid down in Chapter III of Regulation (EU) 2018/1725 in application of the Decision of the Management Board dated 19/06/2019 on internal rules concerning restrictions of certain rights of data subjects. The application of such restrictions shall be time-bound and the person concerned shall be informed on the principal reason for applying them and of the possibility of lodging a complaint with the EDPS or of seeking judicial remedy.

A general data protection notice is made available on the relevant intranet portal page - <https://efsa815.sharepoint.com/sites/policies-and-resources/SitePages/Whistleblowing.aspx>

Last update of this record: 04/08/2021

Reference: DPO/HR/11