

[Handling of requests and complaints submitted under Article 90 of the Staff Regulations](#)

The European Union Agency for Fundamental Rights (FRA or Agency) processes the personal data of a natural person in compliance with Regulation 2018/1725 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.

This data protection notice explains FRA's policies and practices regarding its collection and use of your personal data, and sets forth your privacy rights. We recognise that information privacy is an ongoing responsibility, and we will update this notice where necessary.

The present notice 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 notice.

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1. Why do we collect personal data?

The purpose of the processing of the personal data is to handle requests submitted by data subjects under Article 90(1), and complaints submitted by data subjects under Article 90(2) of the Staff Regulations against decisions taken by sub-delegation at a level below that of the Director (collectively referred to as “Article 90”s).

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.

2. What kind of personal data does the Agency collect?

We will collect only the following personal data necessary for the processing operation described above.

(a) General personal data collected for all Article 90s:

- identification (name, surname of the person submitting the request/complaint)
- contact details (email address of the person submitting the request/complaint);
- 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:

- 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.

3. How do we collect your personal data?

We collect only the personal data you provide us when you submit your request/complaint under Article 90 SR and any data necessary for the proper and effective handling of your Article 90.

You should submit your request to the Appointing Authority to adopt a measure (Article 90(1) SR request) or complaint against a decision or a failure to adopt a measure prescribed SR (Article 90(2) complaint) to

the dedicated functional mailbox legal@fra.europa.eu. Any Article 90 submitted by other means, e.g. directly to the Appointing Authority, to HR, by post, etc. shall be forwarded by the recipient to the aforementioned functional mailbox without delay.

The Article 90 will be assigned to a designated lawyer, who will register your Article 90 and acknowledge receipt. You will receive a reply from the Appointing Authority by email.

4. Who is responsible for processing your personal data?

The Agency is the legal entity responsible for the processing of your personal data and determines the objective of this processing activity. The Head of Corporate Services Unit is responsible for this processing operation.

5. Which is the legal basis for this processing operation?

The processing is lawful under Article 5(1)b of Regulation 2018/1725 as it is necessary for compliance with a legal obligation to which the controller is subject (the handling of and reply to your request/complaint submitted in accordance with Article 90 SR).

Moreover, the processing is lawful under Articles 5(1)d and 10(2)a of Regulation 2018/1725 as you, as data subject, give consent to the processing when submitting your request/complaint.

6. Who can see your data?

The designated staff member(s) responsible for handling Article 90s, the Head of Corporate Services Unit (the Appointing Authority by Delegation in accordance with Director's Decision 2023/001) and – where the decision is to be taken at the level of the Director - the Director, will have access to the data in your request/complaint and the information needed to reply.

In preparing the reply, it may be necessary to consult relevant services to verify the factual background (e.g. HR, Finance, the line manager), and in such instances, access to any personal information by persons consulted shall be as limited as possible to the extent necessary to reply to the request/complaint.

In some cases, the Agency may make recourse to external legal advice in the handling of the Article 90, either under the SLA with DG HR of the European Commission or through a contract with an external lawyer.

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. These entities would then have access to the data contained in the initial request/complaint and the Agency's reply, as well as any relevant information to support the handling of the appeal.

7. Do we share your data with other organisations?

Personal data is processed by the Agency (and its processors) only. In case that we need to share your data with third parties, you will be notified to whom your personal data has been shared with.

8. Do we intend to transfer your personal data to Third Countries/International Organizations

No

9. When we will start the processing operation?

We will start the processing operation when you submit your Article 90.

10. How long do we keep your data?

In defining the retention of documents, FRA follows the common Commission-level retention list (CRL) of the European Commission, and the rules and guidelines on data protection and retention. The retention period is 15 years.

11. How can you control your data?

Under Regulation 2018/1725, you have rights we need to make you aware of. The rights available to you depend on our reason for processing your information. You are not required to pay any charges for exercising your rights except in cases where the requests are manifestly unfounded or excessive, in particular because of their repetitive character.

We will reply to your request without undue delay and in any event within one month of receipt of the request. That period may be extended by two further months where necessary, taking into account the complexity and number of the requests.

You can exercise your rights described below by sending an email request to legal@fra.europa.eu.

11.1. The value of your consent

By submitting a request or complaint under Article 90 SR, you explicitly consent to the processing of your personal data in line with this notice. You have the right to withdraw your consent at any time, and we will delete your data or restrict its processing. All processing operations up until the withdrawal of consent will still be lawful.

11.2. Your data protection rights

a. Can you access your data?

You have the right to receive information on whether we process your personal data or not, the purposes of the processing, the categories of personal data concerned, any recipients to whom the personal data have been disclosed and their storage period. Furthermore, you can have access to such data, as well as obtain copies of your data undergoing processing.

b. Can you modify your data?

You have the right to ask us to rectify your data you think is inaccurate or incomplete at any time.

c. Can you restrict us from processing your data?

You have the right to restrict the processing of your personal data. If you do, we can no longer process them, but we can still store them. In some exceptional cases, we will still be able to use them (e.g. with your consent or for legal claims). You have this right in a few different situations: when you contest the accuracy of your personal data, when the Agency no longer needs the data for completing its tasks, when the processing activity is unlawful, and finally, when you have exercised your right to object.

d. Can you delete your data?

You have the right to ask us to delete your data when the personal data are no longer necessary for the purposes for which they were collected, when you have withdrawn your consent or when the processing activity is unlawful. In certain occasions we will have to erase your data in order to comply with a legal obligation to which we are subject.

We will notify to each recipient to whom your personal data have been disclosed of any rectification or erasure of personal data or restriction of processing carried out in accordance with the above rights unless this proves impossible or involves disproportionate effort from our side.

e. Are you entitled to data portability?

Data portability is a right guaranteed under Regulation 1725/2018 and consists in the right to have your personal data transmitted to you or directly to another controller of your choice.

In this case, this does not apply for two reasons: I) in order for this right to be guaranteed, the processing should be based on automated means, however we do not base our processing on any automated means; II) this processing operation is carried out in the public interest, which is an exception to the right to data portability in the Regulation.

f. Do you have the right to object?

When the legal base of the 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*” which is the case in most of our processing operations, you have the right to object to the processing. In case you object, we have to stop the processing of your personal data, unless we demonstrate a compelling reason that can override your objection.

g. Do we do automated decision making, including profiling?

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

12. What security measures are taken to safeguard your personal data?

The Agency has several security controls in place to protect your personal data from unauthorised access, use or disclosure. We keep your data stored on our internal servers with limited access to a specified audience only. Hard copies are stored in locked safes with access granted to designated persons only.

13. What can you do in the event of a problem?

a) The first step is to notify the Agency by sending an email to legal@fra.europa.eu and ask us to take action.

b) The second step, if you obtain no reply from us or if you are not satisfied with it, contact our Data Protection Officer (DPO) at dpo@fra.europa.eu.

c) At any time you can lodge a complaint with the EDPS at <http://www.edps.europa.eu>, who will examine your request and adopt the necessary measures.

14. How do we update our data protection notice?

We keep our data protection notice under regular review to make sure it is up to date and accurate.

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