

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

NAME OF PROCESSING OPERATION²: Processing of personal data in the context of whistleblowing proceedings using internal reporting channels

Reference number: DPR-2021-139
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Part 1 (Publicly available)

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: Director Contact details: Ethics@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 the FRA itself <input checked="" type="checkbox"/>
The data is processed also by a third party (contractor) [mention the third party] <input type="checkbox"/> (Specify if they are processors or joint controllers)

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?

Contact point at external third party (e.g. Privacy/Data Protection Officer – use functional mailboxes, not personal ones, as far as possible):

Name/Surname/Email address

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).

We collect personal data in the context of the whistleblowing process in order to allow the implementation of the FRA guidelines on whistleblowing using internal channels and allow proper follow up.

- *Article 22a of the Staff Regulations applicable by analogy to temporary and contract agents pursuant to articles 11 and 81 CEOS*
- *Commission ex ante agreement to the adoption by the Agencies of the implementing rules laying down guidelines on whistleblowing of 27.2.2018 (C(2018) 1362 final)*
- *EB decision 2018/03 on the implementation of FRA Guidelines on Whistleblowing*

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

Whose personal data are being processed?

FRA staff (including SNEs, trainees and study visitors)

Non-FRA staff (every person contractually involved with FRA)

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

Please tick all that apply and give details where appropriate

(a) General personal data (add or delete as appropriate – the data in the brackets are only examples)

Personal details: name and surname (should the whistle-blower chooses to disclose it)

Contact details: office address, phone and e-mail (if disclosed)

Education & Training details

Employment details (e.g. work experience, languages, name and type of the employer/organisation, address of the employer/ organisation)

Financial details (e.g. financial identification form, bank account information)	<input type="checkbox"/>
Family, lifestyle and social circumstances	<input type="checkbox"/>
Goods or services provided	<input type="checkbox"/>
Other (please give details):	
<ul style="list-style-type: none"> Whistleblowing report where all unnecessary data (in particular, special categories of data) will be erased and not further processed; Whistleblowing register with encrypted (and in some cases, anonymisation) data for follow-up. 	<input checked="" type="checkbox"/>
(b) Special categories of personal data (Article 10)	
The personal data collected reveal:	
Racial or ethnic origin	<input type="checkbox"/>
Political opinions	<input type="checkbox"/>
Religious or philosophical beliefs	<input type="checkbox"/>
Trade union membership	<input type="checkbox"/>
Genetic, biometric or data concerning health	<input type="checkbox"/>
Information regarding an individual's sex life or sexual orientation	<input type="checkbox"/>
N/A	<input type="checkbox"/>
(c) Personal data relating to criminal convictions and offences (Article 11)	
Criminal record (or similar, e.g. declaration of good conduct)	<input type="checkbox"/>
N/A	<input type="checkbox"/>

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

*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).*

FRA Director
Supervisor, where necessary
Ethics Officer
OLAF (where needed)
Other staff who the Director decides to involve on a need-to-know basis

7) Transfers to third countries or international organisations (Article 31.1 (e))⁶

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

Transfer outside of the EU or EEA

Yes

No

If yes, specify to which country:

Transfer to international organisation(s)

Yes

No

If yes specify to which organisation:

Legal base for the data transfer

Transfer on the basis of the European Commission's adequacy decision (Article 47)

Transfer subject to appropriate safeguards (Article 48.2 and .3), specify:

- a) A legally binding and enforceable instrument between public authorities or bodies. Standard data protection clauses, adopted by
- b) the Commission, or
- c) the European Data Protection Supervisor and approved by the Commission, pursuant to the examination procedure referred to in Article 96(2).
- d) Binding corporate rules, Codes of conduct, Certification mechanism pursuant to points (b), (e) and (f) of Article 46(2) of Regulation (EU) 2016/679, where the processor is not a Union institution or body.

Subject to the authorisation from the European Data Protection Supervisor:

Contractual clauses between the controller or processor and the controller, processor or the recipient of the personal data in the third country or international organisation.

Administrative arrangements between public authorities or bodies which include enforceable and effective data subject rights.

Transfer based on an international agreement (Article 49), specify:

Derogations for specific situations (Article 50.1 (a) –(g))

N /A

⁶ 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.

Yes, derogation(s) for specific situations in accordance with article 50.1 (a) –(g) apply
In the absence of an adequacy decision, or of appropriate safeguards, transfer of personal data to a third country or an international organisation is based on the following condition(s):

- (a) The data subject has explicitly consented to the proposed transfer, after having been informed of the possible risks of such transfers for the data subject due to the absence of an adequacy decision and appropriate safeguards
- (b) The transfer is necessary for the performance of a contract between the data subject and the controller or the implementation of pre-contractual measures taken at the data subject's request
- (c) The transfer is necessary for the conclusion or performance of a contract concluded in the interest of the data subject between the controller and another natural or legal person
- (d) The transfer is necessary for important reasons of public interest
- (e) The transfer is necessary for the establishment, exercise or defense of legal claims
- (f) The transfer is necessary in order to protect the vital interests of the data subject or of other persons, where the data subject is physically or legally incapable of giving consent
- (g) The transfer is made from a register which, according to Union law, is intended to provide information to the public and which is open to consultation either by the public in general or by any person who can demonstrate a legitimate interest, but only to the extent that the conditions laid down in Union law for consultation are fulfilled in the particular case

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"?

The time for which the complaint files may be kept is the following: upon the closing of an initial investigation led by the FRA, the data gathered to build the investigation will either be sent to OLAF if it concerns fraud or if not relating to fraud, dealt with through the appropriate channels within the FRA.

If a case is sent to OLAF and an investigation is opened, there is no need for the FRA to keep the information for a longer period.

In cases OLAF decides not to start an investigation, the FRA will delete the information without delay. Files on the basis of which an administrative inquiry or disciplinary procedure is opened by the FRA, the information should be kept in line with the retention periods foreseen for those files.

When the investigation has dismissed a report of whistleblowing, the data gathered to build the investigation will be retained for a period of 2 months after the final decision has been issued to all the parties involved.

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?

- | | |
|---|-------------------------------------|
| Document Management System (DMS) | <input type="checkbox"/> |
| FRA network shared drive | <input type="checkbox"/> |
| Outlook Folder(s) | <input type="checkbox"/> |
| CRM | <input type="checkbox"/> |
| Hardcopy file | <input checked="" type="checkbox"/> |
| Cloud (give details, e.g. cloud provider) | <input type="checkbox"/> |
| Servers of external provider | <input type="checkbox"/> |

Other:

Paper files stored in a locked safe, electronic files in secure USB stick, register in protected excel file on a secure USB stick. The security measures will be adapted once a new information security risk assessment is conducted.

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: e-mail to Ethics@fra.europa.eu

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