

EEAS Personal Data Processing Record

Ref. Article 31 of Regulation (EU) 2018/1725 - Legal obligation for maintaining records

1	Title of the processing activity	Claims under article 90(2) of the Staff Regulations and requests under article 24 and article 90(1) of the Staff Regulations in the European External Action Service
2	Update of the record (last modification date)	04/12/2020
3	Register reference number	1702
4	Identity and contact details of the Data Controller Joint Controller (if applicable) Data Processor (if applicable)	<p>Controller European External Action Service (EEAS)</p> <p>Directorate/Division responsible for managing the personal data processing operation: Directorate General for Budget and Administration EEAS.BA Directorate for Human Resources EEAS.BA.HR Advisor to the Director of BA.HR</p> <p>Data Protection Officer:</p> <p>Emese Savoia-Keleti, SG.AFFGEN.DPO</p> <p>DATA-PROTECTION@EEAS.EUROPA.EU</p>
5	Identity and contact details of the Data Protection Officer	<p>EEAS Data Protection Officer (DPO): Emese Savoia-Keleti. SG.AFFGEN.DPO Functional Mailbox of the DPO: DATA-PROTECTION@eeas.europa.eu</p>
6	Purpose of the processing activity	<p>The processing of data intends to establish the facts on which the decision of the Appointing Authority (AA) applies.</p> <p>Description</p> <p>In the context of Claims under Article 90(2) of the Staff Regulations and Requests under Article 24 and Article 90(1) of the Staff Regulations the EEAS has concluded a Service Level Agreement (SLA) with the European Commission DG HR, the last version of which, dated 21-12-2012, being still operational (https://intranet.eeas.europa.eu/page/administration/administrative-rules-and-procedures/slas). Appendix E to this SLA describes the services provided by DG HR as regards Article 90(2) complaints and Article 24 requests (deemed to be treated as article 90(1) requests).</p> <p>Framework:</p> <p>It is specified that the Commission will be the Appointing Authority for replying to complaints introduced under article 90(2) SR against individual decisions in those cases where the EEAS has sub-delegated its powers to the Commission in accordance with Article 2 of the SR. In this case, the EEAS does not process personal data of complainants and is only informed on a restricted basis of the identity of complainants and the limited data on the subject matter of the complaint for the purpose of checking the</p>

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service invoiced by the Commission in the framework of the SLA.

DG HR.E.2 (former D.2) prepares the decisions in reply to complaints introduced against individual decisions by the EEAS in domains for which it has kept its powers as Appointing Authority (furthermore AA). It includes the decisions taken on matters for which the Commission has delegated its AA powers to the EEAS (mostly in matters deriving from annex X to staff regulations or annex VII applied to Commission staff assigned to Union Delegations).

DG HR.E.2 also deals with requests for assistance under article 24 of the SR introduced by the EEAS staff members against COM or EEAS staff members. Though not expressly mentioned, requests for assistance against external individuals - in limited cases - are also examined by the Commission.

Handling of data:

Complaints and requests are in general sent directly to the Commission, and if it is not the case, the AA or the receiving entity in the EEAS directly sends the request/complaint to DG HR.E2 for processing.

The Commission collects the paper file and sends the data to the competent service(s), either to collect supplementary information (article 90(2), article 24) necessary to prepare the draft answer or to transfer the file for competence(article90(1)).

DG HR.E.2 may sometimes send the data to other services involved in the initial or potential decision (for example PMO or IDOC).

The complaint/request is introduced by DG HR.E.2 in an application (RECART) for the purpose of following the case and deadlines which are only accessible to the staff of DG HR.E.2 (see DPO-140.6).

The paper file containing the request/complaint, the elements sent by the services consulted and the draft reply, as well as the final signed reply is kept by DG HR.E.2.

The draft reply including extracts of the compiled file is sent via ARES as staff matter to the AA of the EEAS, the EEAS Legal service, the AA having taken the contested decision and the line management up to the AA for further review.

The decision finally taken by the AA of the EEAS is sent via ARES/and by e-mail/paper copy to the person concerned, with limited copies to the management and legal service, It is also sent to DG HR.E.2 and, if required, to the personal file of the person concerned on the basis of article 26 of SR (not on cases introduced under article 24 and subsequent complaints, not in matters dealing with medical data, and not in case of complaints following disciplinary procedures. The personal file of EEAS staff are kept and updated by the European Commission on the basis of the SLA quoted above (see annex 1) and available in SYPER/personal file.

Decisions are archived in the EEAS essentially in ARES in the libraries of the Divisions and Directorates concerned and accessible to the limited number of recipients concerned by the decision.

As concerns article 90(1) formal request, in practice, data are also sent to DG HR.E.2, for registration and sent to the Appointing Authority in the EEAS which deals with the answer. A copy of the answer is communicated to DG HR.E.2 by ARES as follow-up and for any future reference in case of appeal.

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7	Legal basis and lawfulness	<p>Legal Bases at stake are as follows:</p> <p>Article 90(2) of the Staff Regulations Article 90(1) of the Staff Regulations</p> <p>Article 24 of the Staff Regulations Data on other individuals may be disclosed by the requester, if those data concern staff of the institution, they will not be processed unless the AA decides to open an administrative inquiry and the third party will be informed accordingly. If data concern external individuals, they will not be processed, as the result of a positive reply to the request does not involve a direct response against this person</p> <p>Lawfulness of the processing Article 5, paragraph 1, point b) and d) of reg (EU) 2018/1725: processing is necessary for compliance with a legal obligation to which the controller is subject, and the data subject has unambiguously given his or her consent.</p>
8	Categories of individuals whose data is processed - Data subjects	<p>Officials of the EEAS Officials of the Commission assigned to Union Delegations or formerly assigned to Union Delegations Retired officials of the EEAS Retired officials of the Commission formerly assigned to Union Delegations Temporary Agents or former Temporary Agents of the EEAS Contract agents and former contract agents of the EEAS Contract agents of the Commission assigned to Delegations and former contract agents of the Commissions assigned to Delegations Officials from other Institutions Candidates to open competitions Candidates from member states on posts published externally on the basis of article 98 of the SR Members of the family of officials and other staff(e.g. surviving spouse and orphans) Other individuals in case of Article 24 requests including Local Agents in the Delegations</p>

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9	Categories of data - Data processed	<p>Article 90(2) Data are those communicated by the data subject with his/her claim, and those gathered by the members of DG.HR.E.2 which is in charge of preparing the draft reply. Categories of data are:</p> <ul style="list-style-type: none"> identity of the individual including personal number data related to the personal situation including family situation data on the carrier of the individual, including if data related to disciplinary matters or appraisals other data meant to be considered under the Staff Regulations <p>Article 90(1) Any data communicated by the data subject who requests that a decision is taken.</p> <p>Article 24</p> <ul style="list-style-type: none"> data concerning the identification and personal situation of the person presenting the request <p>data on individuals- staff or external- whose action or non-action is challenged by the person presenting the request.</p>
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10	Recipients of data – Access to data	<p>The recipient of the data is primarily DG HR.E.2; alternatively the Appointing Authority of the EEAS or services concerned which transfer the request/complaint to DG HR.E.2 for processing.</p> <p>When DG HR.E.2 opens the case, it informs the complainant/requester and it sends a copy of the complaint / request to the Division/services which took the decision or which are concerned by the request with copy to the person designated for coordination in EEAS DG. B.A.</p> <p>The draft reply including extracts of the compiled file is sent via ARES as staff matter to the AA of the EEAS, the EEAS Legal service, the AA having taken the contested decision and the line management of the budget and administration up to the AA for further review.</p> <p>Complaints and requests are in general sent directly to the Commission. If that is not the case, the AA or the receiving entity in the EEAS directly sends the request/complaint to DG HR.E2 for processing.</p> <p>The Commission collects the paper file and sends the data to the competent service(s), either to collect supplementary information(article 90(2), article 24) necessary to prepare the draft answer or to transfer the file for competence(article90(1)).</p> <p>DG HR.E.2 may send the data to services involved in the initial or potential decision (for example PMO or IDOC).</p> <p>The complaint/request is introduced by DG HR.E.2 in an application (RECart) for the purpose of following the case and deadlines which are only accessible to the staff of DG HR.E.2 (see DPO-140.6).</p> <p>The paper file containing the request/complaint, the elements sent by the services consulted and the draft reply, as well as the final signed reply is kept by DG HR.E.2.</p> <p>The draft reply including extracts of the compiled file is sent via ARES as staff matter to the AA of the EEAS, the EEAS Legal service, the AA having taken the contested decision and the line management up to the AA for further review.</p> <p>The final decision taken by the AA of the EEAS is sent via ARES/and by e-mail/paper copy to the person concerned, with limited copies to the management and legal service. It is also sent to DG HR.E.2 and, if required, to the personal file of the person concerned on the basis of article 26 of SR (not done on cases introduced under article 24 and subsequent complaints, not in matters dealing with medical data, and not in case of complaints following disciplinary procedures. The personal file of EEAS staff are kept and updated by the European Commission on the basis of the SLA quoted above(see annex 1) and available in SYPER/ personal file.</p> <p>Decisions are archived in the EEAS essentially in ARES in the libraries of the Divisions and Directorates concerned and accessible to the limited number of recipients concerned by the decision.</p> <p>As concerns article 90(1) formal request, in practice, data are also sent to DG HR.E.2, for registration and sent to the Appointing Authority in the EEAS which deals with the answer. A copy of the answer is communicated to DG HR.E.2 by ARES as follow-up and for any future reference in case of appeal.</p> <p>In case of appeal before the General Court/Court of Justice, the decision and any background data are communicated to the Legal Service of the EEAS and potentially to external lawyers representing the EEAS.</p>
11	Transfer to Third Countries or International Organizations (IOs) and suitable safeguards (if applicable)	N/A

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12	<p>Time limit for keeping the data - Retention period</p>	<p>As concerns files processed by DG HR.E.2, the retention period is exactly the same as for files of the European Commission.</p> <p>13. Retention</p> <p>Les dossiers relatifs aux réclamations/demandes sont conservés par l'unité pendant une période de 5 ans et ce afin de permettre une comparaison des précédents et de garantir une application uniforme du statut. Ces dossiers sont accessibles exclusivement à l'unité D. 2. Par après, ils sont transférés aux Archives Historiques pour conservation permanente.</p> <p>EEAS files are not distinguished from Commission files. They are archived and transferred by the Commission as part of Commission files. In the EEAS, decisions may be kept for up to 5 years, even if they are not subject to appeal in Court, in order to serve as precedent and in order to guarantee an equitable application of the Staff Regulations. Files are only accessible to EC DG HR. E.2 and EEAS divisions or services in charge of decisions on the subject matter</p>
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13	Data Storage	<p>Data are stored both electronically and in printed version.</p> <p>Physical files</p> <p>Printed files are kept or archived in locked/secure cupboards Paper files containing the request/complaint, the elements sent by the services consulted and the draft reply, as well as the final signed reply is kept by DG HR.E.2.</p> <p>Electronic files</p> <p>Data in electronic format are stored on the servers of the EEAS with limited access and on the servers (ARES) of the Commission In ARES the files are kept with restricted access</p> <p>Elements sent to DG HR by the entity whose decision is challenged are stored in the entity's drive and only accessible to the entity staff which is by definition dealing with staff matters</p> <p>Specific measures</p> <p>The complaint/request is introduced by DG HR.E.2 in an application (RECART) for the purpose of following the case and deadlines which are only accessible to the staff of DG HR.E.2 (see DPO-140.6). The paper file containing the request/complaint, the elements sent by the services consulted and the draft reply, as well as the final signed reply is kept by DG HR.E.2. The draft reply including extracts of the compiled file is sent via ARES as staff matter to the AA of the EEAS, the EEAS Legal service, the AA having taken the contested decision and the line management up to the AA for further review. The decision finally taken by the AA of the EEAS is sent via ARES/and by e-mail/paper copy to the individual concerned, with limited copies to the management and legal service, It is also sent to DG HR.E.2 and, if required, to the personal file of the person concerned on the basis of article 26 of SR (not on cases introduced under article 24 and subsequent complaints, not in matters dealing with medical data, and not in case of complaints following disciplinary procedures. The personal file of EEAS staff are kept and updated by the European Commission on the basis of the SLA cited above(see annex 1) and available in SYPER/personal file. Decisions are archived in the EEAS essentially in ARES in the libraries of the Divisions and Directorates concerned and accessible to the limited number of recipients concerned by the decision.</p> <p>As concerns article 90(1) formal request, in practice, data are also sent to DG HR.E.2, for registration and sent to the Appointing Authority in the EEAS which deals with the answer. A copy of the answer is communicated to DG HR.E.2 by ARES as follow-up and for any future reference in case of appeal.</p>
14	General description of security measures	<p>Appropriate security measures of personal data are ensured both by organisational and technical measures, in particular by limited access to data through restrictions and (only restrictions apply – no encryption of data) guaranteed for authorised members of EEAS management staff as well as through safety measures for paper files.</p> <p>Outline of security measures</p> <p>Physical files are locked in cupboards on BA.HR premises or in Archives rooms. Use of staff matter marking in Ares. In case of email exchanges, the transmission of such documents is encrypted by using</p>

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SECEM email.

Upon instruction of EEAS.BA.HR, the DMO manages the list of staff needing to read documents marked with the security markings staff matters

Related ARES* files are attached to the EEAS the filing plan heading 12.007.100.200 Human Resources /Legal Advice, Statutory Issues. Access to ARES files is restricted to staff having the need to know. EEAS.BA.HR identifies who has the right to access the files and asks the DMO to implement such access in Ares. The management of marking lists and restrictions of access to Ares files is therefore a double security applied to such cases.

Access to Ares files under heading 12.007.100.200 is granted for the period until the user has the assigned position/function, even if s/he continues to have access to staff matter / inquiries and disciplinary procedures

Access needs to be requested and authorised for new staff members, and access needs to be withdrawn by a notification to the DMO.

Security also ensured by the safety measures built in the various IT applications used*

Electronic files are password-protected and the access is an EU Login-authenticated process**

Measures are provided by DIGIT to prevent non-responsible entities from accessing data

Description on organisational measures

Organisational measures include appropriate access rights and access control precautions. More specific, access to the data (ARES, functional mailboxes, paper files, shared folders) is granted only to a strictly limited number of authorised members of EEAS staff. Relevant communication over email will be encrypted.

The authentication for ARES is accomplished via the EU Login authentication mechanism**, which is designed to increase the security of the European Commission IT systems. EU Login is replacing the ECAS system.

Description on technical measures

Technical measures include the use of secure equipment (e.g. locked cupboards) and IT tools (including file servers, email servers, secure connections, firewalls, etc.).

All data in electronic format (data, emails, etc.) that is collected and processed during this processing operation are stored either on the servers of EEAS or of the European Commission, the operations of which abide by the European Commission's security decisions and provisions established by the Directorate of Security for this kind of servers and services.

Files of Claims under article 90(2) of the Staff Regulations and requests under article 24 and article 90(1) of the Staff Regulations will be stored in locked cupboard managed by EEAS.BA.HR and located in their premises. Access is granted only to authorised staff.

* Advanced Records System (ARES)

The HERMES–ARES–NOMCOM (HAN) is an IT system of the European Commission. ARES is a document management system, linked to HERMES, used by the European Commission and Executive Agencies. ARES is hosted on secure servers of the Commission.

Electronic documents containing personal data will be transferred and archived via ARES which provides security for sensitive documents in two simultaneous ways: the marking and the filing.

The marking: A special marking is to be applied when personal data is processed in the context of Claims under article 90(2) of the Staff Regulations and requests under article 24 and article 90(1) of the Staff Regulations. The marking used is Staff matters . The digitised document can be attached to the corresponding ARES record.

Filing: In order to ensure limited access to a file, a predefined group of users identified by the controller shall be created. The file will only be visible to the predefined group identified by the controller. Only staff members having received both the right to read the marking and to have access to the file will be allowed to consult the documents.

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		<p>The Audit trails for data processing and communication will be done via ARES workflow. Considering the use of ARES for each transmission and storage of personal data according to the above mentioned measures, no undue removal or undue transmission will be possible.</p> <p>* * EU Login authentication system (EU Login is the system replacing ECAS authentication as of October 2016).</p> <p>The access for electronic files is secured through DIGIT security measures and the authentication system of EU LOGIN.</p> <p>EU LOGIN is the European Commission Authentication Service that enables web applications to authenticate centrally with a common strong password, offering more security than the current LDAP password. It offers also single sign-on between applications using it.</p> <p>Authentication means verifying the credentials of a user. Credentials usually consist of some kind of identifier (e.g. a username) and an element such as a password that has been linked to the identifier.</p> <p>Successful authentication is not a 100% guarantee that the user is the person to whom the credentials belong, only that the user was able to present correct credentials for the claimed identity.</p> <p>EU LOGIN provides a set of mechanisms, procedures and rules that endeavour to ensure that the chances of fraudulent use of credentials is minimised or eliminated.</p> <p>Strong authentication is one of these mechanisms. Passwords are considered to be one of the weakest kinds of authentication, but if the rules for the password usage and composition are good enough, it can be sufficient for most applications that deal with 'sensitive', but not classified information.</p> <p>Credentials can take many forms, but initially EU LOGIN will only use passwords. Password authentication relies on something that the user alone knows. Stronger authentication usually relies on something (s)he knows, plus something (s)he possesses - for example a certificate, a token, a smart card or perhaps just a card with codes on it. Authentication using biometrics is said to rely on something that the user is. Other types of authentication include something that the user can do (e.g. write with a certain movements and pressure) and where the user is (on which network, geographical location through GPS...).</p> <p>EU LOGIN includes supports for stronger types of authentication, but organisational and other measures are required before making it available for use.</p>
15	Rights of individuals	<p>Data subjects have the right to access their personal data and the right to correct any inaccurate or incomplete personal data, as well as to request the removal of their personal data if unlawfully processed according to pre-defined provisions aligned with EC DG HR.E.2 activity, which will be implemented within 10 working days once the request has been deemed legitimate.</p> <p>Data are principally communicated by the complainant/requester him/herself, who implicitly agrees to the processing of his/her data in the framework of his/her complaint. For any supplementary data gathered for the preparation of the draft answer the individual concerned can contact the staff member in charge of the preparation of the draft reply; the individual concerned may address the query to the functional mailbox: Human-Resources@eeas.europa.eu</p>

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16	Information to data subjects	<p>A Privacy Statement linked to this record contains information for the Data Subject(s). The aforementioned Privacy Statement is available on the EEAS intranet, under a dedicated sub-section of the Directorate for Human Resources</p> <p>According to the SLA with the European Commission, DG HR.E.2 is principally involved (article 90(2) and 24 SR) in providing information to data subjects on the details of the processing of data. A note is sent to the individual concerned directly by the Commission at the time of the request/claim containing in particular the number of the case, statutory deadlines, the identity of the person in charge of the case(in DG HR.E.2), the identity of the AA(EEAS) and the rights of the person pursuant to Reg. (EU) 2018/1725.</p> <p>Templates of notes sent by the Commission, especially designed for the EEAS, are set up.</p>
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