



European Labour Authority

DATA PROTECTION OFFICER

RECORD OF PROCESSING OPERATIONS ON PERSONAL DATA

DPR-ELA-2022-0002 Handling request for access to documents lodged under Decision No 8/2020 of 24 April 2020 of the Management Board laying down the rules for applying Regulation (EC) 1049/2001 with regard to European Labour Authority documents

1 ART 1: PUBLIC - RECORD (ARTICLE 31¹)**1.1 GENERAL INFORMATION**

| | |
|---|---|
| Record reference | DPR-ELA-2022-0002 |
| Title of the processing operation | Handling request for access to documents lodged under Decision No 8/2020 of 24 April 2020 of the Management Board laying down the rules for applying Regulation (EC) 1049/2001 with regard to European Labour Authority documents |
| Controller entity | European Labour Authority |
| Joint controllers | <input checked="" type="checkbox"/> N/A <input type="checkbox"/> YES, fill in details below |
| Processor(s) | <input type="checkbox"/> N/A <input checked="" type="checkbox"/> YES, fill in details below |
| External organisation(s)/entity(ies) Names and contact details | <input type="checkbox"/> N/A <input checked="" type="checkbox"/> YES In some specific cases, when the request is received by mail post, an EU logistics company will process the contact details of applicants on behalf of the European Labour Authority for the sole purpose of dispatching access-to-documents decisions of the European Labour Authority to the applicants by registered mail. Microsoft Ireland South County Business Park, One Microsoft Place, Carmanhall and Leopardstown, Dublin, D18 P521, Ireland. |
| Data Protection Officer Name and contact details | Laura NUNEZ BAREZ Landererova 12, 811 09 Bratislava I Slovakia Email: data-protection@ela.europa.eu |
| Corporate Record | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| DPO Notes | This record will cover all operations with personal data relating to any access to documents request received by the European Labour Authority (ELA). |
| Language of the record | English |
| Record Model | <input checked="" type="checkbox"/> N/A |

¹ Pursuant to **article 31** of the new data protection regulation for EU institutions and bodies (**Regulation (EU) 2018/1725**) each controller and processor have to maintain a **record of processing activities** under its responsibility that contains at least the information listed under that article.

1.2 PURPOSE AND DESCRIPTION OF THE PROCESSING**1.2.1 Purpose**

The processing of personal data described in this record has the purpose of handling requests for access to documents lodged under Decision No 8/2020 of 24 April 2020 of the Management Board laying down the rules for applying Regulation (EC) 1049/2001 with regard to European Labour Authority documents within the prescribed legal deadlines and of establishing an annual statistical report as required by Article 17(1) of the latter regulation. The personal data may be processed for the purpose of following up on an inquiry by the European Ombudsman or in case of court proceedings.

1.2.2 Processing for further purposes

- Archiving in the public interest
- Scientific or historical research purposes
- Statistical purposes
- N/A

1.2.3 Modes of processing

1. Automated processing (Article 24)
 - a. Computer/machine
 - i. automated individual decision-making , including profiling
 - ii. Online form/feedback
 - iii. Any other, specify
2. Manual processing
 - a. Word documents
 - b. Excel sheet
 - c. Any other, specify

1.2.4 Storage medium

1. Paper
2. Electronic
 - a. Digital (MS documents (Word, excel, Powerpoint), Adobe pdf, Audiovisual/multimedia assets, Image files (.JPEG, .PNG, etc.))
 - b. Databases
 - c. Servers
 - d. Cloud
3. External contractor premises

Description:

Storage of paper files concerning request for access to documents.

1.2.5 Comments on the processing of the data

All requests for access to documents and relevant European Institutions' documents are stored in the European Labour Authority database. Request and reply to the request will be integrated with the Commission's document management system (for further information on the latter's processing operation, see Record "Management and (short- and medium-term) preservation of Commission documents").

1.3 DATA SUBJECTS AND DATA CATEGORIES

1.3.1 Data subjects' categories

| | |
|-----------------------------|--|
| 1. Internal to organisation | <input checked="" type="checkbox"/> Yes Any European Labour Authority staff member whose personal data are contained in the documents requested. |
| 2. External to organisation | <input checked="" type="checkbox"/> Yes Every individual who submits a request for access to documents held by the European Labour Authority under Decision No 8/2020 of 24 April 2020 of the Management Board laying down the rules for applying Regulation (EC) 1049/2001 with regard to European Labour Authority documents Every other individual whose personal data are included in requests for access to documents submitted by applicants, or which are contained in the documents requested. |

1.3.2 Data categories/fields

a) Personal data provided by the applicant via the online form:

- Compulsory data: Name, contact details (e-mail and postal address, country of residence), subject of the request (it may contain personal data in case it relates to an identified or identifiable natural person) and organisation;

b) Personal data, which the applicant provided in his/her application, submitted in another electronic or paper format;

c) Personal data contained in the documents requested.

d) When there are reasonable doubts concerning the identity of the natural person making the request, the European Labour Authority may ask the applicant to provide a copy of an identification document (for example, a passport or identity card) in order to verify his/her identity, in the following exceptional circumstances:

· where the documents concerned by the request contain the applicant's own personal data and the applicant is granted individual access to such documents;

· where there are legitimate reasons to consider that the right to access stemming from Decision No 8/2020 of 24 April 2020 of the Management Board laying down the rules for applying Regulation (EC) 1049/2001 with regard to European Labour Authority documents is being abused by that particular applicant.

The identification document should contain the applicant's name and, if applicable, his/her postal address, while any other data such as a photograph or any personal characteristics may be blacked out.

1.3.2.1 Special categories of personal data

Indicate if the processing operation concerns any 'special categories of data' which fall(s) under Article 10(1), which shall be prohibited unless any of the reasons under article 10(2) applies:

Yes , the processing concerns the following special category(ies):

| |
|--|
| <p>Data revealing</p> <p><input type="checkbox"/> racial or ethnic origin,</p> <p><input type="checkbox"/> political opinions,</p> <p><input type="checkbox"/> religious or philosophical beliefs,</p> <p><input type="checkbox"/> trade union membership,</p> <p>Or/and,</p> <p><input type="checkbox"/> Genetic data, biometric data for the purpose of uniquely identifying a natural person,</p> <p><input type="checkbox"/> Data concerning health,</p> <p><input type="checkbox"/> Data concerning a natural person's sex life or sexual orientation.</p> <p><input checked="" type="checkbox"/> N/A</p> |
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1.3.2.2 Data related to 'criminal convictions and offences'

| | |
|--|---|
| The data being processed contain sensitive data which fall(s) under Article 11 'criminal convictions and offences' | N/A <input checked="" type="checkbox"/> Yes <input type="checkbox"/> |
|--|---|

1.4 RETENTION PERIOD

Indicate the administrative time limit(s) for keeping the personal data per data category, and if known, specify the start/end date, or describe the specific start/end moment of each time limit:

| Data category | Retention period | Optional | |
|--|---|-------------------|-----------------|
| | | Start date/moment | End date/moment |
| All personal data belonging to to the case file of a request for access to documents | No longer than five years after the closure of a case-file. | | |

Description

Following ELA filing plan and specific retention list , under 7.6 Relations with citizens, is specified 5 years for ELA.7.6.2 Applications for access to documents: Files covering applications for access to documents. The start date is the closure of a case-file.

There are different situations where a case-file is considered closed:

At the initial stage, a file is considered closed after the initial decision of the European labour Authority has become final (i.e. there was no confirmatory application), unless follow-up is required by an enquiry of the European Ombudsman. In such case, a file is considered closed if the European Ombudsman has closed its enquiry in relation to the complaint without any need for further action on the part of the European Labour Authority with regard to the application for access to documents.

At the confirmatory stage, a file is considered closed after the confirmatory decision of the European Labour Authority has become final, namely:- the deadline for bringing proceedings before the EU Court has elapsed; or- the EU Court confirmed the confirmatory decision; or- the European Labour Authority completed the follow-up requested by the EU Court in its Judgment.

A file is not considered closed despite the confirmatory decision being final in case of an enquiry of the European Ombudsman requiring follow-up. In such case, a file is considered closed if the latter has closed its enquiry in relation to the complaint without any need for further action on the part of the European Labour Authority with regard to the application for access to documents.

1.5 RECIPIENTS

| Origin of the recipients of the data | |
|--|---|
| 1. <input checked="" type="checkbox"/> Within the EU organization | ELA Staff dealing with access to documents requests (need to know basis). |
| 2. <input checked="" type="checkbox"/> Outside the EU organization | <p>Personal data submitted by the applicants are not disclosed outside the European Labour Authority, except to the extent necessary for dispatching a letter by registered mail or if required so by law.</p> <p>Personal data that appear in the documents requested may be disclosed to the public following an assessment under Decision No 8/2020 of 24 April 2020 of the Management Board laying down the rules for applying Regulation (EC) 1049/2001 with regard to European Labour Authority documents, read in conjunction with Article 9 of Regulation (EU) 2018/1725.</p> |

| Categories of the data recipients | |
|--|---|
| 1. <input checked="" type="checkbox"/> A natural or legal person 2. <input type="checkbox"/> Public authority 3. <input type="checkbox"/> Agency 4. <input type="checkbox"/> Any other third party, specify | <p>Specify who has access to which parts of the data: The documents and personal data disclosed under Decision No 8/2020 of 24 April 2020 of the Management Board laying down the rules for applying Regulation (EC) 1049/2001 with regard to European Labour Authority documents read in conjunction with Article 9 of Regulation (EU) 2018/1725, are sent directly to the applicant who requested access to documents and are considered as having made public.</p> <p>In some specific cases, when the request is received by mail post, an EU logistics company will process the contact details of applicants on behalf of the European Labour Authority for the sole purpose of dispatching access-to-documents decisions of the European Labour Authority to the applicants by registered. ELA's contractors are bound by a specific contractual clause for any processing operations of your data on behalf of ELA, and by the confidentiality obligations deriving from the General Data Protection Regulation in the EU Member States ('GDPR' Regulation (EU) 2016/679).</p> |

Description

Pursuant to point (13) of Article 3 of Regulation (EU) 2018/1725, public authorities which may receive personal data in the framework of a particular inquiry in accordance with Union or Member State law shall not be regarded as recipients. The further processing of those data by those public authorities shall be in compliance with the applicable data protection rules according to the purposes of the processing.

1.6 INTERNATIONAL DATA TRANSFERS

| Transfer to third countries or international organisations of personal data |
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| 1. Transfer outside of the EU or EEA <input type="checkbox"/> N/A, transfers do not occur and are not planned to occur |

YES,

2. Transfer to international organisation(s)

- N/A, transfers do not occur and are not planned to occur
- Yes, specify further details about the transfer below

3. 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:
2. (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.
3. 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

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

- N/A
- Yes, derogation(s) for specific situations in accordance with article 50.1 (a) –(g) apply (ies).

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

Description

The European Labour Authority may reply to an applicant requesting access to documents under Decision No 8/2020 of 24 April 2020 of the Management Board laying down the rules for applying Regulation (EC) 1049/2001 with regard to European Labour Authority documents, residing in any country outside the EU. Apart from the applicant's own personal data, the European Labour Authority only discloses personal data to an applicant residing outside the EU if the conditions for a transfer of personal data to a third country or an international organisation under Chapter V of Regulation (EU) 2018/1725 are met.

Since the factual and legal circumstances, including the place of residence of the applicant, are different for each application for access to documents, the existence of a legal base for the transfer (Article 47 of Regulation (EU) 2018/1725 or the application of a derogation for a specific situation (Articles 50(1)(d) and (g) of Regulation (EU) 2018/1725) have to be assessed case-by-case by the European Labour Authority.

1.7 INFORMATION TO DATA SUBJECTS ON THEIR RIGHTS

| Rights of the data subjects |
|--|
| <i>Article 17 – Right of access by the data subject</i> |
| <i>Article 18 – Right to rectification</i> |
| <i>Article 19 – Right to erasure (right to be forgotten)</i> |
| <i>Article 20 – Right to restriction of processing</i> |
| <i>Article 21 – Notification obligation regarding rectification or erasure of personal data or restriction of processing</i> |
| <i>Article 22 – Right to data portability</i> |
| <i>Article 23 – Right to object</i> |
| <i>Article 24 – Rights related to Automated individual decision-making, including profiling</i> |

1.7.1 Privacy statement

The data subjects are informed about their rights and how to exercise them in the form of the a privacy statement attached to this record.

Publication of the privacy statement

Published on website

Web location:

- ELA internal website (URL: ELA SharePoint on Personal Data Protection)
- External website (ELA Public Register of records)

Guidance for Data subjects which explains how and where to consult the privacy statement is available and will be provided at the beginning of the processing operation.

Available at <https://www.ela.europa.eu/en/privacy-policy>

Description:

A hyperlink to the privacy statement is provided on the website of the online form for requesting access to documents as well as in the acknowledgment of receipt sent to the applicants pursuant to Decision No 8/2020 of 24 April 2020 of the Management Board laying down the rules for applying Regulation (EC) 1049/2001 with regard to European Labour Authority documents.

1.8 SECURITY MEASURES

Short summary of overall Technical and Organizational Measures implemented to ensure Information Security:

Description:

All data in electronic format (e-mails, documents, uploaded batches of data etc.) are stored either on the servers of the European Labour Authority or of its contractors.

The European Labour Authority's contractors are bound by a specific contractual clause for any processing operations of personal data on behalf of the European Labour Authority, and by the confidentiality obligations deriving from the General Data Protection Regulation.

In order to protect personal data, the European Labour Authority has put in place a number of technical and organisational measures. Technical measures include appropriate actions to address online security, risk of data loss, alteration of data or unauthorised access, taking into consideration the risk presented by the processing and the nature of the personal data being processed. Organisational measures include restricting access to the personal data solely to authorised persons with a legitimate need to know for the purposes of this processing operation.