



Data Protection – Privacy Statement

Anti-harassment procedure

This privacy statement concerns the European Court of Auditors' ('ECA') processing of personal data in the context of the **informal** and **formal anti-harassment procedures**.

The manner in which the ECA processes and protects your personal data is described below.

Provision of your personal data is **mandatory** according to Decision No 50-2022 on the European Court of Auditors' policy for ensuring a respectful and harassment-free workplace.

Failure to provide your personal data would have the following consequences:

- impossibility to prevent a potential non-respectful and harassing situation within the ECA.
- impossibility to find an amicable solution to a strained situation between an alleged victim and the person accused of harassment.
- impossibility to follow up on your complaint and to take a decision.

Who is responsible for handling your data?

Data processing operations are under the responsibility of the Secretariat-General and the Directorate of Human Resources, Finance and General Services.

Why do we collect your data?

Duly authorised staff within the Secretariat-General or the Directorate for Human Resources, Finance and General Services or any other party involved in the process, as the case may be (e.g., confidential counsellors, mediators) are collecting and processing your personal data for the following purposes:

- to select and train confidential counsellors and mediators.
- to provide support and protection for the alleged victims, and, where necessary, to direct them towards the appropriate departments.
- to manage such cases effectively and attempt to resolve them on the basis of information that is as comprehensive as possible.
- to take interim, accompanying and/or preventive measures and/or actions.

In addition, the objectives of the procedures are detailed hereunder, depending on the context.

Informal procedure:

- Support from confidential counsellors:

The purpose of contacting a confidential counsellor is to seek advice if faced with disrespectful behaviour or potential harassment. The confidential counsellor will provide information on the various support options and will help finding the most appropriate way to tackle the issue at stake.

- Mediation:

The purpose of mediation is to find an amicable solution to a strained situation between an alleged victim and the person accused of harassment as effectively and quickly as possible (the solution will be formalised in a mediation settlement agreement).

Formal procedure:

We collect and process your personal data for the following purposes:

- to allow the Appointing Authority to handle the request for assistance¹ including all the work done in a formal procedure, starting with the pre-assessment and ending with the decision.
- to allow the Appointing Authority to respond to questions from the European Ombudsman, the Legal Service or the national/EU judicial authorities in case of a complaint against a decision to refuse assistance.

Your personal data will not be processed for any purpose other than that for which they have been collected.

What are the rules governing the use of your data?

[Regulation \(EU\) 2018/1725](#) of 23 October 2018 ('**EU**DP**R**') is the legal framework for processing personal data.

The legal basis for the processing of your personal data is:

- Staff Regulations of Officials of the European Union (Articles 1d, 12a and 24) and the Conditions of Employment of Other Servants of the European Union (Article 11), as laid down by Council Regulation (EEC, Euratom, ECSC) No 259/68, as last amended by Regulation (EU, Euratom) No 1023/2013 of the European Parliament and of the Council of 22 October 2013 ('the Staff Regulations') and
- ECA's [Decision No 50-2022](#) for ensuring a respectful and harassment-free workplace.

What personal data do we process?

The following categories of personal data will be processed:

- Identification details, such as name, surname, contact details.
- Application files as required by the selection procedure which is described in Decision 50-2022, Annexes 1 and 2.
- Information collected from various parties who intervene in the process, such as alleged facts.
- Documents produced, such as memorandums, agreements, meeting minutes.
- Complaints, decisions, and more particularly the personal data listed under section "**How long do we keep your data?**".

How long do we keep your data?

Your personal data will be retained for the periods specified hereunder.

¹ When the decision is to open an administrative investigation, please refer to the respective privacy statement for more details.

Selection and appointment of confidential counsellors and internal mediators:

<p><u>HR Director/SGL files</u>: personal data are retained for 3 years after the publication of the final list.</p> <p><u>ECA Intranet</u>: A list of the names and contact details of the internal and external mediators available is posted on the ECA’s intranet (regularly updated, in the event of changes).</p>	<p>Concerned personal data:</p> <ul style="list-style-type: none"> - applications sent to the HR Director (containing the motivation letters); - opinion from the members of the confidential counsellors' network; - correspondence with the HR Director; - proposal for appointment submitted to the Secretary-General.
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Harassment case files (informal procedure):

<p><u>Confidential counsellors’, line managers’, medical officer’s respective files</u>: personal data are erased immediately after the end of the procedure.</p>	<p>Concerned personal data:</p> <ul style="list-style-type: none"> - memos; - agreement between the alleged victim and the person accused of harassment, if applicable; - medical certificates received by the Medical Service, if applicable; - correspondence with line managers and third parties, if applicable; - correspondence with the HR Director regarding the mediation's output.
<p><u>Mediator's file</u>: personal data are erased immediately after the end of the procedure (i.e., when the mediation settlement has been agreed upon). Only the mediation settlement is kept 5 years from the date of the respective settlement.</p>	
<p><u>HR Director/SGL files</u>: personal data are retained for 10 years after the expiry of the contract with the external mediator.</p>	<p>Concerned personal data:</p> <ul style="list-style-type: none"> - request to appoint an external mediator, if applicable; - correspondence and contract with the external mediator; - mediation settlement agreements, if applicable.

Harassment case files (formal procedure):

- Complaints concerning ECA staff:

<p>SGL: the Secretariat-General keeps the entire harassment file which contains the information (including personal data) listed below for a period of 5-years from the date the file was closed.</p>	<p>Concerned personal data:</p> <ul style="list-style-type: none"> - written request for assistance submitted by the alleged victim; - supporting evidence; - correspondence; - request for the Legal Service's opinion; - pre-assessment document/report; - declaration of the alleged harasser; - decision to open an investigation or refuse assistance; - communication regarding the opening of an investigation; - decision regarding interim measures, if applicable; - appointment of the investigator, if applicable; - investigation report, if applicable; - final decision on the request for assistance - always for staff up to grade AD12 included, and for staff from
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	<p>grade AD13 to AD15 if delegated by the Administrative Committee;</p> <ul style="list-style-type: none"> - correspondence with the parties involved, in cooperation with the medical officer, line managers and/or the mediator, proposing solutions, including financial compensation.
<p>Legal Service: the respective harassment file is kept for 5 years from the delivery of the opinion at the stage of pre-assessing the request for assistance.</p>	<p>Concerned personal data:</p> <ul style="list-style-type: none"> - all the data received by the Secretary-General or the HR Director in the context of the request for assistance; - all the data received by the Secretary-General in the context of a complaint against the decision to refuse assistance.
<p>Investigator: the entire harassment file is transferred to the Appointing Authority as soon as the investigation has ended.</p>	<p>Concerned personal data:</p> <ul style="list-style-type: none"> - correspondence with the alleged victim and the alleged harasser; - interviews with and evidence from ECA staff and third parties; - final report to the persons concerned and to the Appointing Authority.

- Complaint concerning the ECA President or Members or the ECA Secretary-General

<p>SGL or the HR Director: keep the entire harassment file which contains the information (including personal data) listed below for 5 years from the date the file was closed.</p>	<p>Concerned personal data:</p> <ul style="list-style-type: none"> - written request for assistance submitted by the alleged victim; - supporting evidence; - correspondence; - request for the Legal Service's opinion; - request for the Ethics Committee's opinion; - pre-assessment document/report; - communication regarding the opening of an investigation; - correspondence with the parties involved.
<p>Members of the Ethics Committee: the respective harassment file is kept for 5 years from the delivery of the opinion.</p>	<p>Concerned personal data:</p> <ul style="list-style-type: none"> - written request for assistance submitted by the alleged victim and forwarded to the Committee by the SGL or by the DHR; - opinion regarding the request.
<p>Administrative Committee: the respective harassment file is kept for 5 years from the delivery of the opinion.</p>	<p>Concerned personal data:</p> <ul style="list-style-type: none"> - correspondence with the SGL or the DHR in order to receive their pre-assessment of the request for assistance; - declaration of the alleged harasser; - decision to open an investigation or refuse assistance; - decision regarding interim measures, if applicable; - appointment of the investigator, if applicable; - investigation report, if applicable; - declaration of the Member/SGL in relation to the report and the evidence it includes; - submission of the report to the Court; - correspondence with the parties involved.

Court:	Concerned personal data: - declaration of the Member/SGL; - final decision on the request for assistance.
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Who has access to your data and to whom will your data be disclosed?

The Secretary-General, the Director of Human Resources, Finance and General Services, the Legal Service, the mediators, the confidential counsellors and the medical officer have access to your data according to the “need to know” principle.

It is important to note that depending on the context and situation (e.g. informal or formal procedure), the Secretary-General or the Director of Human Resources, Finance and General Services do not have access to all the personal data. Hence, they control the process without accessing all the data, by implementing strict measures that other parties (e.g. confidential counsellors, mediators) should comply with.

If you lodge a complaint, your personal data may be transferred to the European Ombudsman and/or the European Data Protection Supervisor and/or the ECA Data Protection Officer.

Your personal data may be transferred to the ECA’s translation directorate if translation is required.

If the processing activity is, at a later stage, audited by the ECA Internal Audit Service (IAS), your personal data will only be processed if necessary in order to fulfil the obligations of the IAS. Access to personal data by IAS will be restricted to what is absolutely necessary and legally permitted.

How do we safeguard against possible misuse of or unauthorised access to your data?

Data sets are stored securely in the ECA’s data centre in Luxembourg and are therefore covered by the numerous measures taken to protect the availability, integrity and confidentiality of the institution’s electronic assets.

Access to personal data is restricted to a specific user group. Access rights are granted on a “need to know” basis, taking account of the role, post and responsibilities of the user concerned. These rights are continually updated as staff assignments change.

The ECA’s Secretary-General has overall responsibility for the implementation of the rules on access rights and for the compliance with the rules on data protection but has delegated the responsibility in these areas to different entities. The Court has an information security policy and an Information Security Officer who ensures that the policy is implemented correctly and that the related checks are tested for efficiency.

We have implemented specific measures to protect the personal data in the context of anti-harassment procedure. However, the exact details cannot be published, in order to protect the process.

What are your rights?

Your rights in respect of your personal data are set out in Articles 17 to 24 EUDPR. [This document](#) contains further details about your rights. In sum:

- you have the right to access your personal data and have them rectified where they are inaccurate or incomplete;
- under certain circumstances (e.g. when data are no longer necessary for the purpose for which they were collected or processed, or if you withdraw consent to processing), you have the right to ask us to erase your personal data;
- you also have the right to restriction of processing in certain circumstances (e.g. when we no longer need your personal data, but you require them for preparing, exercising or defending legal claims);
- where applicable, you have the right to object to the processing of your personal data on grounds relating to your situation, and the right to data portability;
- where the processing of your personal data is based on your consent, you may withdraw that consent at any time, following which your personal data will be irrevocably removed from our records without undue delay and you will be informed thereof, unless such deletion is prevented by a legal/contractual obligation.

We will consider your request, take a decision, and notify you of it without undue delay, and in any event within one month of receiving the request. This period may be extended by two further months, where necessary (based on the complexity and number of requests).

You are not subject to automated decisions.

As specified in the ECA's Decision No 42-2021², your rights may be restricted in certain circumstances, for example "when ensuring that the Court's staff members who consider themselves to have been subjected to harassment may confidentially seek counselling and support from a manager, a contact person, the medical officer or a mediator" (see Article 2(1)(f) of Decision No 42-2021).

Who should you contact if you have a query or complaint?

You may exercise your rights, ask any question or submit a complaint by contacting the data controller at ECA-SGL-SGL@eca.europa.eu or ECA-HRD@eca.europa.eu. You may contact our DPO ([eca-data-protection \[at\] eca.europa.eu](mailto:eca-data-protection[at]eca.europa.eu)) if you have any concern or complaint about the processing of your personal data³. You have the right to lodge a complaint about the processing of your personal data with the European Data Protection Supervisor ('EDPS') ([edps \[at\] edps.europa.eu](mailto:edps[at]edps.europa.eu))⁴.

² [Decision No 42-2021](#) of the ECA of 20 May 2021 adopting internal rules concerning restrictions of certain rights of data subjects in relation to the processing of personal data in the framework of activities carried out by the European Court of Auditors.

³ Article 7 (3) of [Decision No 40-2021](#) adopting implementing rules concerning the Data Protection Officer pursuant to Article 45(3) of Regulation (EU) 2018/1725 states: "Consultation and complaints: (3) A person who has questions or complaints concerning data protection at the Court should in the first instance address these to the DPO, without prejudice to their right to contact the EDPS directly. The DPO may launch an investigation as described in Article 8 of this Decision upon such a question or complaint."

⁴ Article 63 EUDPR - Right to lodge a complaint with the European Data Protection Supervisor: "1. Without prejudice to any judicial, administrative or non-judicial remedy, every data subject shall have the right to lodge a complaint with the European Data Protection Supervisor if the data subject considers that the processing of personal data relating to him or her infringes this Regulation."