

Cedefop record of processing activity

This record is based on Article 31 of Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 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 1247/2002/EC.

Nr.	Item	Description
Administrative inquiries and disciplinary procedures at Cedefop		
1.	Last update of this record	23/08/2021
2.	Reference number	2007-582 – Administrative inquiries and disciplinary procedures at Cedefop
3.	Name and contact details of controller	<p>Cedefop – European Centre for the Development of Vocational Training Postal address: Cedefop Service Post, Europe 123, 570 01 Themi, GREECE Telephone: (+30) 2310-490111 Email: info@cedefop.europa.eu</p> <p>Responsible department or role: Department for Resources and Support DRS / Human Resources</p> <p>Functional email address for inquiries on processing of personal data: hr_data_protection@cedefop.europa.eu</p>
4.	Name and contact details of DPO	data-protection-officer@cedefop.europa.eu
5.	Name and contact details of joint controller (where applicable)	N/A

6.	Name and contact details of processor (where applicable)	<ul style="list-style-type: none"> • person/s responsible for conducting the administrative inquiry; • members of the Disciplinary Board
7.	Short description and purpose of the processing	<p>The purpose of this processing operation is the management of personal data during administrative inquiries and disciplinary procedures within Cedefop.</p> <p>Administrative inquiries enable the Appointing Authority to determine whether an official or other servant has failed to fulfil his/her obligations under the Staff Regulations and, where appropriate, impose a disciplinary penalty.</p> <p>A preliminary assessment (pre-inquiry) informs Cedefop's Appointing Authority of a possible case requiring administrative or disciplinary procedures. When there are allegations of financial nature, the Appointing Authority consults the European Anti-Fraud Office (OLAF) to determine if it is preparing, or is in the process of conducting, an inquiry into the same facts or circumstances.</p> <p>If OLAF is not preparing or conducting an inquiry, Cedefop's Appointing Authority may open an administrative inquiry and appoint investigator/s to carry it out. The investigator/s carry out inspections, gather all necessary evidence and report back to the Cedefop's Appointing Authority.</p> <p>At the end of an administrative inquiry, Cedefop's Appointing Authority may decide to a) close the inquiry without follow-up, b) issue a warning, or c) launch a disciplinary proceeding.</p> <p>During pre-disciplinary proceedings, Cedefop's Appointing Authority conducts a hearing pursuant to Article 3 of Annex IX to the Staff Regulations, requires additional verifications, and takes one of the decisions provided for in Article 3 of Annex IX to the Staff Regulations.</p> <p>Disciplinary proceedings could involve, or not, the Disciplinary Board and are carried out according to Annex IX of the Staff Regulations.</p> <p>Note: under a specific Service Level Agreement (SLA), Cedefop may request from EC IDOC advice on legal and procedural matters in administrative inquiries and disciplinary procedures. If there is a need to transfer information to IDOC in this context, Cedefop shall blackout all personal data.</p>

		<p>Lawfulness and legal basis for this processing operation¹: The lawfulness of the processing is defined by Article 5(1)(a) of Regulation 2018/1725, namely 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.</p> <p>Legal basis Data is processed in accordance with the objectives of Article 86 and Annex IX of the Staff Regulations of officials of the European Communities, as well as by Articles 49, 50 and 119 of the Conditions of Employment of Other Servants.</p> <p>Commission Decision C(2019) 4231 of 12 June 2019 laying down general implementing provisions on the conduct of administrative inquiries and disciplinary proceedings also applies to Cedefop by analogy.²</p>
8.	Description of categories of persons whose data Cedefop processes and list of data categories	<p>Data subjects: The person(s) concerned by an administrative inquiry/disciplinary procedure are Cedefop staff, however, data subjects may also include non-staff as witnesses, third parties (persons merely quoted in the file) and alleged victims.</p> <p>Categories of personal data processed: For the preliminary assessment (pre-inquiry)</p> <ul style="list-style-type: none"> • “Hard” data are objective, factual, administrative information including data identifying those implicated in an inquiry or procedure (e.g. surname, first name, personnel number, grade/step, seniority, data relating to status under the Staff Regulations and conditions of employment, etc.); • “Soft” or "subjective" data are allegations and declarations by the affected individuals, which may be based upon a reasonable suspicion or the subjective perception of the investigators (e.g. data about conduct, action or inaction of persons under investigation). <p>For the administrative inquiry and disciplinary proceedings</p> <ul style="list-style-type: none"> • Confidentiality declarations signed by all parties involved;

¹ Also follows EDPS (2016). *Guidelines on processing personal information in administrative inquiries and disciplinary proceedings*.

² A model decision for the agencies is expected later in 2021.

		<ul style="list-style-type: none"> • Statements and/or other documents from staff members who may have information relevant to administrative inquiries; • The hearing that shall be recorded in a document signed by the staff member, or any other person, who was heard and by the interviewers; • Data related to the individual responsibility of the persons concerned, including financial liability (Article 22 of the Staff Regulations); • Disciplinary decision which will be stored in the personal file of the affected staff member; • Written conclusion following the completion of the administrative inquiry or disciplinary procedure including penalties imposed on the persons concerned, if required. <p>Processing of special categories of data: In the context of administrative inquiries and disciplinary proceedings, the file of the data subject may reveal special categories of data such as political or trade-union affiliation, religious or philosophical beliefs, data revealing racial or ethnic origin, or data concerning health or sex life. Such information will only be processed and stored if it is relevant in the context of the case and proportional to the intended purpose.</p> <p>Cedefop will process such data in compliance with Article 10(2) of Regulation (EU) No 2018/1725.</p> <p>Data on offences and criminal convictions will be processed only if authorised in accordance with Article 11 of Regulation (EU) 2018/1725.</p> <p>Note: the personal data collected and processed is restricted to the necessary and proportionate for the purpose of establishing the facts and, where necessary, determining whether there has been a failure to comply with the obligations incumbent on Cedefop staff members.</p>
9.	Time limit for keeping the data	<p>a) In the context of preliminary assessment and when the case is dismissed, the data is kept for a maximum of 2 years after the adoption of the decision that no inquiry will be launched.</p> <p>b) When the inquiry is closed without follow-up or when a warning is issued, the administrative inquiry file will be kept for 5 years from closure of the investigation. This retention period could be extended if an administrative or legal procedure is ongoing which requires consultation of the file.</p>

		<p>c) In the context of pre-disciplinary proceedings, in line with Article 26 of the Commission Decision C(2019) 4231 of 12 June 2019, if Cedefop’s Appointing Authority decides to address a warning to the person concerned pursuant to Article 3(1)(b) of Annex IX to the Staff Regulations, it shall be inserted in his/her personal file. The person concerned has the right to add comments (which shall also be inserted in the personal file). After 18 months of the date of the warning, the person concerned may ask the Appointing Authority to have it removed from his or her personal file.</p> <p>d) When Cedefop’s Appointing Authority adopts a formal decision that a disciplinary proceeding should be launched, Cedefop shall transfer the inquiry file to the disciplinary file.</p> <p>e) In the context of the disciplinary file, Cedefop takes into consideration the nature of the sanction, possible legal recourses, as well as audit purposes to set up a maximum retention period of 20 years starting from the date of Cedefop’s Appointing Authority decision concluding the procedure.</p> <p>The person concerned may submit a request, under Article 27 of Annex IX to the Staff Regulations for the deletion from his/her personal file of a written warning or reprimand 3 years after the decision and in the case of another penalty (except for removal from post) - 6 years after the decision. Cedefop’s Appointing Authority might grant or deny the request. If the request is granted, the disciplinary file which led to the penalty should also be deleted³.</p> <p>Same rules apply to electronic and paper files.</p> <p>Cedefop does not keep data beyond the abovementioned time limits for historical, scientific or statistical purposes. Should data be kept for such purposes, Cedefop shall blackout all personal data.</p>
10.	Recipients of the data	<p>The data may be disclosed to the following recipients:</p> <ul style="list-style-type: none"> • Cedefop’s Appointing Authority; • Person concerned and/or his/her lawyer or assisting person of choice; • Cedefop Deputy Director, heads of departments to the extent that this information is necessary for the performance of their tasks and on a strict “need-to-know” basis;

³ From EDPS (2016). *Guidelines on processing personal information in administrative inquiries and disciplinary proceedings*.

		<ul style="list-style-type: none"> • HR representative/s providing support during an administrative procedure on a strict “need-to-know” basis; • Investigator(s) mandated by Cedefop; • Members of the Disciplinary Board; • Legal function of Cedefop and, where necessary, external law firms contracted to provide legal assistance; • The members of the HR Service responsible for keeping personal files • At the request of the person concerned, the file or part of it may be translated. In this case the file will be seen by a member of the CdT or by an external translator; • Where the disciplinary decision has a financial impact, it is forwarded to the HR Service for the adjustment of the salary. The HR service then requests the salary adjustment to the Paymaster’s Office and the salaries are processed jointly by Cedefop’s Finance and HR Services; • European Commission IDOC within the framework of the SLA with Cedefop. In this context, Cedefop shall blackout all personal data. <p>In case of audits, claims, appeals or legal proceedings:</p> <ul style="list-style-type: none"> • Cedefop Appeals Committee; • EU or national bodies charged with monitoring or implementation of EU or national law (e.g. OLAF, European Court of Justice, European Civil Service Tribunal, national courts); • European Ombudsman; • European Data Protection Supervisor.
11.	Are there any transfers of personal data to third countries or international organisations? If so, to which ones and with which safeguards?	No
12.	General description of security measures where possible. (article 33, 2018/1725 REGULATION)	<p>The following measures are in place in accordance with Article 33 of 2018/1725 Regulation:</p> <ul style="list-style-type: none"> • Communication of data is restricted to those persons who "need to know" for the performance of their duties; • Due to the sensitive nature of the data processed, all persons involved should sign confidentiality declarations;

		<ul style="list-style-type: none"> • In accordance with Article 26 of the Staff Regulations, the decision taken at the end of the disciplinary proceedings is placed in the personal file of the staff member concerned; • All physical personal files are locked in secure cupboards in the premises of the HR service. Access to the physical personal file is limited to the data subject and to Cedefop personnel specifically authorised to have access to personal files. The data subject does not have direct access to the paper files and can only consult them in the office of HR. • Electronic files are stored in the Records Bank of the Livelink Electronic Document Management System and are accessible only to authorised persons on a "need-to-know" basis. Access to the personal files in Livelink is managed by permissions which are set according to specific roles or users. HR has full access (add/edit/delete) on all personal files while each staff member has read access to their own file only. • <u>An audit trail system</u> ensures that the jobholder can find out who has consulted his or her personal data, exactly which data have been consulted and when. <u>All access is logged including actions performed by the system administrators</u> (e.g. ICT, Records manager). Livelink auditing/versioning capability also guarantees data integrity.
13.	For more information, including how to exercise your rights to access, rectification, object and data portability (where applicable), see the privacy statement:	<i>Privacy Statement on intranet</i>