

*(To be filled out in the EDPS' office)*  
**REGISTER NUMBER: 1374**

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### NOTIFICATION FOR PRIOR CHECKING

**DATE OF SUBMISSION: 29/04/2016**

**CASE NUMBER: 2016-0415**

**INSTITUTION: EIOPA**

**LEGAL BASIS: ARTICLE 27-5 OF THE REGULATION CE N° 45/2001<sup>(1)</sup>**

### INFORMATION TO BE GIVEN<sup>2</sup>

1/ NAME AND ADDRESS OF THE CONTROLLER

Fausto Parente, Executive Director  
European Insurance and Occupational Pension Authority EIOPA  
Westhafenplatz 1  
60327 Frankfurt am Main  
GERMANY

2/ ORGANISATIONAL PARTS OF THE INSTITUTION OR BODY ENTRUSTED WITH THE PROCESSING OF PERSONAL DATA

Human Resources team

3/ NAME OF THE PROCESSING

Administrative Inquiries and disciplinary proceedings

4/ PURPOSE OR PURPOSES OF THE PROCESSING

Personal data are processed in order to conduct administrative inquiries and disciplinary proceedings within EIOPA. Administrative inquiries and disciplinary proceedings are conducted for the purpose of investigating a possible failure by staff to comply with their obligations under the Staff Regulations respectively the Conditions of Employment of Other Servants. Administrative inquiries within EIOPA seek to determine and are aimed to report facts and circumstances of a case to EIOPA's Executive Director, establishing whether the relevant rules and procedures applicable to the situation under investigation have been respected and determining any individual responsibility, having regard to aggravating and extenuating circumstances. Disciplinary proceedings may be opened following administrative inquiries based on established facts and the degree of responsibility of the person concerned.

<sup>1</sup> OJ L 8, 12.01.2001.

<sup>2</sup> **Please attach all necessary backup documents**

5/ DESCRIPTION OF THE CATEGORY OR CATEGORIES OF DATA SUBJECTS  
Permanent Staff (TA, CA), SNEs and Trainees

6/ DESCRIPTION OF THE DATA OR CATEGORIES OF DATA (*including, if applicable, special categories of data (Article 10) and/or origin of data*).

Identification Data: Name, first name, personal number, age, gender

Data relating to racial or ethnic origin, political opinions, religious or philosophical belief, trade union membership and of data relating to health or sex life are processed only in exceptional cases.

Data related to:

(1) the behaviour, action, inaction of persons subject of an investigation or a disciplinary procedure;

(2) the legal qualification of the behaviour, action, inaction with regard to the Staff Regulations/ CEOS and other obligations;

(3) the individual responsibility of the person concerned, including his/her financial responsibility (article 22 Staff Regulations);

(4) imposed sanctions, including potential disciplinary measures.

7/ INFORMATION TO BE GIVEN TO DATA SUBJECTS

**Administrative Inquiry:**

OLAF will be informed about the name of the concerned party and the allegations, and about the name of the alleging party on a need-to-know basis.

The staff member who is alleging ("allegator") is informed about the Investigation Panel members upon establishment of an Investigation Panel.

S/he will receive a copy of his/her hearing and a summary (conclusions) of the investigation for potential comments.

The staff member who is accused of an alleged wrongdoing ("the person concerned") is informed about the opening of an inquiry and the establishment of an Investigation Panel unless that information would hinder the inquiry. S/he is informed about the allegations against her/him accordingly, and the name of the allegator in case of harassment (in other administrative enquiries only if this does not hinder the inquiry or harm the interest of this person). S/he will receive a copy of the minutes of his/her hearing and the final report of the Investigation Panel for comments on the facts before it is sent to the Appointing Authority. The person concerned has the right to receive, upon express request, all documents directly linked to the allegations made against her/him, subject to the protection of the legitimate interests of third parties.

The Investigation Panel members are informed about the identity of the allegator and person concerned in view of, first, confirming the absence of conflict of interest and, second, of conducting their investigation. They draft the minutes of the hearings and the Report on their Investigation, including recommendations to the Appointing Authority.

Witnesses are informed about the identity of the allegator and the person concerned as well as the allegations, on a need-to-know basis. Their identity is disclosed except if this would harm their person.

The Appointing Authority has access to the allegations, questionnaires, evidence collected, the report of Investigation Panel. He can hear the 2 parties before taking his decision. He informs the 2 parties when he closes the proceedings on a "no case". He informs only the person concerned about a warning (without opening a disciplinary process) or the opening of a disciplinary process with or without Disciplinary Board. During this pre disciplinary process s/he

can organise hearings that will be recorded. The person concerned has the right to receive all evidence.

### **Disciplinary proceedings**

Disciplinary proceedings are initiated by the Appointing Authority who informs the persons concerned in a note notifying her/him of the accusations against her/him and the choice of procedure to be followed (referral or not to the Disciplinary Board).

The person concerned has the right to receive her/his complete personal file and to make copies of all relevant documents.

The Disciplinary Board receives the report of the Appointing Authority. It can organise hearings. It drafts an opinion to address to the staff concerned and the appointing officer.

Information about rights of staff and legality of the proceeding are extensively described in the privacy statement made available on the intranet page of EIOPA and communicated personally to the Investigation Panel members, the allegator, the person concerned and the witnesses.

## **8/ PROCEDURES TO GRANT RIGHTS OF DATA SUBJECTS**

### **(Rights of access, to rectify, to block, to erase, to object)**

In general, data subjects are informed that they have the right to obtain from the controller a copy of their personal data in order to check the accuracy of the data held, and/or to obtain rectification or update of these data (facts) if necessary.

They may also ask for deletion of their data if the processing thereof is unlawful, or to have their data blocked for a period enabling the data controller to verify the accuracy, including the completeness, of the data.

More specifically, the person concerned has the right to comment the conclusions of the Investigation Panels' Report concerning facts about her/him.

In case the Appointing Authority decides to open a disciplinary procedure, the person concerned has access to all information in the file concerning her/him. S/He can take copies of this information.

## **9/ AUTOMATED / MANUAL PROCESSING OPERATION**

Processing is manual and automated.

## **10/ STORAGE MEDIA OF DATA**

Data collected are securely stored in locked cupboard or folders on the main drive and outlook with restricted access rights that are defined by the Investigation Panel/ Disciplinary Board/ Appointing Authority on the "need-to-know-basis". Data shared by emails are blocked by passwords communicated by phone (SMS or orally).

Data in personal file are stored according to process on personal file.

## **11/ LEGAL BASIS AND LAWFULNESS OF THE PROCESSING OPERATION**

Regulation (EU) N° 1094/2010 of the European Parliament and of the Council of 24 November 2010 setting up a European Insurance and Occupational Pensions Authority (the "Regulation"), and in particular Article 68 thereof;

Staff Regulations of Officials of the European Union (hereafter "Staff Regulations") as laid down by Council Regulation (EEC, EURATOM, ECSC) No 259/68 and in particular Article 86 and Annex IX to the Staff Regulations, and to the Conditions of Employment of Other Servants of the European Union (hereafter "CEOS"), and in particular Article 50a and 119 thereof.

12/ THE RECIPIENTS OR CATEGORIES OF RECIPIENT TO WHOM THE DATA MIGHT BE DISCLOSED

The Investigation Panel  
The allegator  
The person concerned  
Witnesses (incl. confidential counsellor)  
Representatives of allegator and/or person concerned (excl. witnesses)  
Human Resources (P-file) and Relevant EIOPA Staff on the need-to-know basis  
The Appointing Authority (Executive Director)  
The Disciplinary Board  
OLAF  
Ombudsman, Court (European, national)  
PMO (the disciplinary decision with financial impact)

13/ RETENTION POLICY OF (CATEGORIES OF) PERSONAL DATA

The disciplinary file, and thus any personal data contained in it, is kept in the HR archives for a time period that is necessary in order to take account of it in case of potential repeated misconduct on the part of the person concerned.

In practice, the following rules apply:

- a) files in cases where a decision was taken to open disciplinary proceedings are kept for 20 years from the date of the ED's decision closing the disciplinary proceedings;
- b) files, in cases where a caution was issued as a result of the inquiry as well as in cases where inquiries were closed without any follow-up, are kept for 5 years from the date on which the Executive Director decides to take no action or to issue a warning to the person concerned;
- c) files, which have not led to an inquiry, are kept for 2 years from the date on which the Executive Director decides not to open an inquiry.

In case of a legal challenge, the above date shall be extended until two years after completion of all relevant proceedings.

Files will not be kept beyond the periods specified above unless the personal data in the disciplinary file is rendered anonymous. In addition, a copy of the decisions taken in the context of administrative inquiries may also be stored in the personal file of the staff member. This includes the copy of the decision to take no further action if the staff member requires so.

13 A/ TIME LIMIT TO BLOCK/ERASE ON JUSTIFIED LEGITIMATE REQUEST FROM THE DATA SUBJECTS

*(Please, specify the time limits for every category, if applicable)*

According to EIOPA's Implementing Rules, Article 12: If the ground for the request of blocking data is the inaccuracy of the data, as referred in paragraph 41, a), the Data Controller shall immediately block the data for the period necessary for verifying the accuracy and completeness of the data. A data subject who has requested and obtained the blocking of data shall be informed thereof by the Data Controller. He or she shall also be informed of the fact that data are to be unblocked at least 15 working days before they are unblocked. The Data Controller shall take a decision as soon as possible and at the latest within 15 working days of receiving a request for data to be blocked. If the request is accepted, it shall be acted upon within 30 working days and the data subject shall be notified thereof. Should the request for blocking be rejected, the Data Controller shall have 15 working days within which to inform the data subject by means of a letter stating the grounds for the rejection. In automated filing systems, blocking shall be ensured by technical means. The fact that personal data are blocked shall be indicated in the system in such a way as to make it clear that the data may not be

used. Personal data blocked pursuant to this Article shall, with the exception of their storage, only be processed for purposes of proof, or with the consent of the data subject or for the purpose of protecting the rights of third parties.

14/ HISTORICAL, STATISTICAL OR SCIENTIFIC PURPOSES

*If you store data for longer periods than mentioned above, please specify, if applicable, why the data must be kept under a form which permits identification.*

Data stored for historical or statistical purposes will be done on an anonymous basis.

15/ PROPOSED TRANSFERS OF DATA TO THIRD COUNTRIES OR INTERNATIONAL ORGANISATIONS

N/A

16/ THE PROCESSING OPERATION PRESENTS SPECIFIC RISK WHICH JUSTIFIES PRIOR CHECKING (*Please describe*):

AS FORESEEN IN:

Article 27.2.(b): Processing operations intended to evaluate personal aspects relating to the data subject

+ Potentially:

Article 27.2.(a): Processing of data relating to health and to suspected offences, offences, criminal convictions or security measures

17/ COMMENTS

N/A

PLACE AND DATE:

FRANKFURT, 28 APRIL 2016

DATA PROTECTION OFFICER:

CATHERINE COUCKE

INSTITUTION OR BODY:

EIOPA