

(To be filled out by the EDPS' DPO)

Register number: 1417

Case number: 2016-1129

Date of submission:08/12/2016

NOTIFICATION

INFORMATION TO BE GIVEN¹

1/ NAME AND FIRST NAME OF THE CONTROLLER

EDPS

2/ SERVICE RESPONSIBLE FOR PROCESSING PERSONAL DATA

HRBA Unit

3/ NAME AND DESCRIPTION OF THE PROCESSING OPERATION

Conduct of administrative inquiries and disciplinary proceedings

Annex of the EDPS decision (of 23 April 2015) lays down how administrative inquiries and disciplinary proceedings shall be conducted.

CHAPTER I Administrative inquiries

1. Launching an administrative inquiry

- Where the AIPN has received information indicating a failure by a EDPS staff member to comply with his obligations under the Staff Regulations, whether intentionally or through negligence on his part, the Appointing Authority (hereinafter the AIPN) may, in accordance with Article 86(2) of the Staff Regulations and Article 2 of Annex IX thereto, decide to launch an administrative inquiry in cases where it needs to further establish the facts and responsibility of the staff member(s) concerned.

¹ Please attach all relevant documents

- In cases of alleged financial fraud in which OLAF has launched an investigation or intends to do so, the AIPN will postpone the launch of an administrative inquiry on the same facts until OLAF has completed its inquiry, unless otherwise agreed with OLAF.
- Under Article 1 of EDPS Decision of 12 September 2007 concerning the terms and conditions for internal investigations in relation to the prevention of fraud, corruption and any illegal activity detrimental to the Communities' interests, the AIPN may ask OLAF to carry out an administrative investigation.
- The Head(s) of Unit or Sector to which the staff member concerned belongs or the Head of Unit in charge of HR matters may ask the AIPN to launch an administrative inquiry.
- The AIPN may launch an administrative inquiry on its own initiative.
- The decision to open an administrative inquiry shall specify the subject and scope of the inquiry and designate the external person(s), service or body to carry it out (*hereinafter 'the investigator'*).
- The investigator shall respect the duty of professional secrecy with regard to any confidential information which has come to his/her knowledge during the conduct of the inquiry.
- The investigator shall also ensure that all processing of personal data are in compliance with the provisions of Regulation 45/2001.
- As soon as an administrative inquiry suggests that an official may be personally involved in an affair, that official shall be kept informed provided that information does not hinder the inquiry, in accordance with Article 20 of Regulation 45/2001.

2. Conducting the inquiry

- **The investigator** shall carry out the investigation independently, thoroughly and as quickly as possible. Investigators may request documents or any other information from any person as they deem relevant and may carry out on-the-spot checks. In carrying out the investigation, the investigator shall neither request nor receive instructions from the AIPN, other EDPS staff or anyone else.
- The investigator may not draw conclusions about any named member of staff without having given the staff member the opportunity to comment on the facts concerning him. The conclusions shall make reference to these comments.
- The staff member under inquiry may be accompanied by a person of his choice. Any costs pertaining thereto are to be borne by the staff member.

3. Closure of the administrative inquiry

- When the inquiry is complete, the investigator shall submit a report to the AIPN. The report shall:
 - set out the facts and circumstances in question;
 - establish whether the rules and procedures applicable to the situation were respected;
 - take account of any aggravating or mitigating circumstances
 - detail the extent of any damage suffered by the Institution.
- Copies of all relevant documents and records of any relevant hearings shall be attached to the report.
- The AIPN shall inform the staff member concerned of the conclusion of the inquiry and communicate to him the conclusions of the inquiry report. The AIPN shall, if requested, and subject to the need to protect the legitimate interests of third parties, provide all documents directly related to the administrative inquiry in accordance with the provisions of Article 2(2) of Annex IX to the Staff Regulations.
- The AIPN may reopen a closed administrative inquiry if new relevant facts come to light.
- After receiving an inquiry report from OLAF, the AIPN may, if the facts and responsibilities are not sufficiently established, either ask OLAF to supplement the report or decide to launch a supplementary administrative inquiry.
- In addition to opening an administrative inquiry, the AIPN may also take administrative or preventive measures which he deems in the interest of the EDPS, such as relocating the staff member subject to the inquiry to another team or sector.

CHAPTER II Disciplinary procedures

4. Preliminary hearing by the AIPN

- In accordance with Article 3 of Annex IX, the AIPN shall invite the staff member in question to a hearing to respond in person to the alleged failure to comply with the Staff Regulations. The AIPN may delegate this task to another person, service or body provided that that person, service or body was not the investigator.
- This procedure may be initiated on the basis of an investigation report, or on the basis of information received where the facts are sufficiently clear and do not warrant further investigation.
- The staff member concerned may be accompanied by a person of his choice. Any costs pertaining thereto are to be borne by the staff member unless the AIPN decides otherwise.

5. Decision to close the procedure with no further action

- If the AIPN decides, pursuant to Article 3(1)(a) of Annex IX to the Staff Regulations, that no case can be made against the staff member concerned, he shall inform the staff member by electronic mail or registered letter with acknowledgement of receipt. The staff member may request that a copy of this letter be included in his or her personal file.
- The letter will be kept in the administration filing system (disciplinary files of the HRBA Unit).

6. Decision to address a warning where there is no disciplinary measure

If, however, the AIPN decides, pursuant to Article 3(1)(b) of Annex IX to the Staff Regulations, to take no disciplinary measure and if appropriate to address a warning (*mise en garde*) to the official concerned, the latter shall be informed by electronic mail or registered letter with acknowledgement of receipt. A copy of this letter shall be included in the staff member's personal file. The staff member may ask for this letter, and any reference to it, to be deleted from his or her personal file after a period of 18 months following the receipt of the letter.

7. Decision to initiate disciplinary proceedings without consulting the Disciplinary Board

- If the AIPN decides to apply the provisions of Article 11 of Annex IX to the Staff Regulations, it may decide on the penalty to be imposed without consulting the Disciplinary Board. This decision will be included in the staff member's personal file.
- A copy of the decision shall be forwarded to the staff member concerned by electronic mail or registered letter with acknowledgement of receipt.

8. Decision to initiate disciplinary proceedings before the Disciplinary Board

8.1. Consultation of the Disciplinary Board

- If the AIPN decides to initiate disciplinary proceedings before the Disciplinary Board pursuant to Article 12 of Annex IX to the Staff Regulations, it shall do so by means of a report submitted to the chairman of the Board. A copy of the report shall be forwarded to the official concerned.
- Pursuant to Article 16(2) of Annex IX to the Staff Regulations, the AIPN shall inform the chairman of the Disciplinary Board of the name of the official representing the Institution who unless otherwise specified shall be the Head of Unit in charge of HR matters at the EDPS.

8.2. Opinion of the Disciplinary Board

- The opinion of the Disciplinary Board shall be forwarded to the AIPN and the staff member concerned.
- In exceptional circumstances, the AIPN may decide, pursuant to Article 14 of Annex IX to the Staff Regulations, to withdraw the case from the Disciplinary Board.

8.3. Decision on disciplinary measures after consulting the Disciplinary Board

- On receipt of the opinion of the Disciplinary Board and after hearing the staff member concerned, the AIPN shall decide on the disciplinary penalty and implement it.
- The original of the decision shall be kept by EDPS for archiving and inclusion into the personal file of the staff member concerned. The latter shall receive a copy of the decision addressed to him either by electronic mail or by registered letter with acknowledgement of receipt.

4/ PURPOSE(S) OF THE PROCESSING

The decision of 23 April 2015 sets out the EDPS policy regarding how administrative inquiries and disciplinary proceedings shall be conducted (Annex of this decision).

Data processing is intended to enable the appointing authority to decide in the light of all the documents if an EDPS staff member or an agent has breached its statutory obligations and, if so, whether this failure justifies setting warning or disciplinary action under the Staff Regulations.

5/ DESCRIPTION OF THE CATEGORY(IES) OF DATA SUBJECT(S)

All EDPS staff members and the EDPS supervisors (and even former members for the Commission).

6/ DESCRIPTION OF THE DATA OR CATEGORIES OF DATA (INCLUDING, IF APPLICABLE, SPECIAL CATEGORIES OF DATA (ARTICLE 10) AND/OR ORIGIN OF DATA)

Data related to:

- (1) Behaviour, action or inaction of persons under investigation and / or subject to pre-disciplinary and disciplinary procedures with possible traffic data;
- (2) The legal qualification of these actions or inactions under the statute and other obligations for the persons concerned;
- (3) The individual responsibility of those involved, including financial assistance (Article 22 of the Staff Regulations);
- (4) The sanctions imposed where appropriate to those concerned.

In the course of conducting administrative inquiries and disciplinary proceedings and in some exceptional circumstances special categories of data may be collected such as personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, trade-union membership, and of data concerning health or sex life. If this is the case, the general rule of prohibition of the processing of such data applies and, it will be evaluated in a restrictive manner whether the processing of such data would be considered as *"necessary for the purposes of complying with the specific rights and obligations of the controller in the*

field of employment law insofar as it is authorised by the Treaties establishing the European Communities or other legal instruments adopted on the basis thereof" (Article 10.2.b). The controller in charge ensures that the investigators responsible for an administrative or disciplinary inquiry are made aware of the restrictive rules which apply to the processing of these special categories of data and avoid the inclusion of these data unless Article 10(2)(b) applies. The necessity shall be assessed as soon as possible by the investigator and, if demonstrated, the assessment recorded. The investigator information shall delete the information if not strictly necessary.

7/ INFORMATION TO BE PROVIDED TO THE DATA SUBJECTS

The opening of an administrative investigation is usually notified to the person concerned. He/she is also informed of the decision of the appointing authority to hear him/her under Article 3 of Annex IX of the Staff Regulations in order to assess the merits of the possible opening of disciplinary proceedings. The opening of a disciplinary procedure shall be notified to the person concerned and under the conditions of Annex IX of the Staff Regulations.

If the official concerned had not been informed of the initiation of the investigation because of the potential harm that this information could cause to the progress of the investigation, the investigator will inform the disappearance of this nuisance, and immediately after his disappearance. Withholding information authorized by section 1 (1) of Annex IX of the Staff Regulations can only take the time necessary for the proper conduct of the investigation

The person concerned shall be informed, at the latest at the first hearing by the investigator, of his rights under Regulation 45/2001, by delivery of this Information Notice (see below).

Being a 'no case', the person concerned is informed of the decision not to open an administrative inquiry or pre-disciplinary procedure under Article 3 of Annex IX of the Staff Regulations in light of information concerning which the investigator becomes aware.

Information Notice

Regulation 45/2001 (herein after the "Regulation") applies to the processing of personal data carried out in the framework of the EDPS disciplinary procedure.

In compliance with articles 11 and 12 of the regulation, the EDPS provides the staff with the following information:

The controller of data is the EDPS.

The purpose of the processing is to enable the appointing authority to decide in the light of all the documents if an EDPS staff member or an agent has breached its statutory obligations and, if so, whether this failure justifies setting warning or disciplinary action under the Staff Regulations.

The legal basis for processing data is Article 86 and Annex IX to the Staff Regulations as well as by Articles 49, 50 and 119 of the Conditions of Employment of Other Servants - EDPS decision of 23 April 2015.

Processing is lawful because of Article 5(a) of the "Regulation" ("processing is necessary (...) in the legitimate exercise of official authority vested in the Community institution or body"). For the processing of

special categories of data (if relevant for the case), Article 10.2.b of Regulation 45/2001 will apply as it may be justified if necessary for "*the purposes of complying with the specific rights and obligations of the controller in the field of employment law*".

The categories of personal data dealt with are the following:

- (1) Behaviour, action or inaction of persons under investigation and / or subject to pre-disciplinary and disciplinary procedures with possible traffic data;
- (2) The legal qualification of these actions or inaction under the statute and other obligations for the persons concerned;
- (3) The individual responsibility of those involved, including financial assistance (Article 22 of the Staff Regulations);
- (4) The sanctions imposed where appropriate to those concerned.

In the course of conducting administrative inquiries and disciplinary proceedings and in some exceptional circumstances special categories of data may be collected such as personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, trade-union membership, and of data concerning health or sex life. If this is the case, the general rule of prohibition of the processing of such data applies. Otherwise, it will be evaluated in a restrictive manner whether the processing of such data would be considered as "*necessary for the purposes of complying with the specific rights and obligations of the controller in the field of employment law insofar as it is authorised by the Treaties establishing the European Communities or other legal instruments adopted on the basis thereof*" (Article 10.2.b). The controller in charge ensures that the investigators responsible for an administrative or disciplinary inquiry are made aware of the restrictive rules which apply to the processing of these special categories of data and avoid the inclusion of these data unless Article 10(2) applies. The necessity shall be assessed as soon as possible by the investigator and, if demonstrated, the assessment recorded. The investigator information shall delete the information if not strictly necessary.

Data retention:

The EDPS will set up a specific disciplinary file aside which will contain all pieces of the administrative inquiry and of the disciplinary proceedings. Only the final disciplinary decision will be mentioned in the personal file

All files of the investigator will be transmitted to the EDPS. "Non cases" are kept for a period of 2 years.

The cases resulting in an administrative investigation without following are kept for 5 years, as well as cases resulting to a proceeding under Article 3 of Annex IX of the Staff Regulations where that procedure has not been followed by disciplinary proceedings.

The records that led to the opening of disciplinary proceedings are kept for a period of 20 years from the final decision of the appointing authority.

Regarding the maintenance of the disciplinary decision in the personal file, Article 27 of Annex IX of the Statute sets deadlines from which a data subject may request the removal of any mention of the sanction of disciplinary file, but decision-making belongs to the AIPN. The official concerned is informed that, even if the penalty contained in his personal file should be removed by application of Article 27 of Annex IX of the Staff Regulations, it will continue to be included in the records of the EPDS and for a period of 20 years from the decision which imposed the sanction. EDPS records will be available only through the official concerned or by the disciplinary authority.

If the investigator considers that it is really necessary to process data relating to Internet connections and the use of e-mail or the telephone (traffic data) in the course of an administrative investigation or disciplinary proceedings, it will be done in accordance with Articles 37 and 20 of Regulation 45/2001.

Article 37(1) provides for specific rules as regards storage of traffic data, i.e. data relating to calls and other connections on telecommunications networks. In principle, these data must be erased or made anonymous upon termination of the call or connection.

Article 20 of the Regulation provides for exemptions from the erasure of data relating to calls and other connections as provided for in Article 37(1) in particular when the storage of data constitutes a necessary measure to safeguard "the prevention, investigation, detection and prosecution of criminal offences" or "the protection of the data subject or of the rights and freedoms of others". It allows traffic data to be stored if necessary during a specific administrative investigation or specific disciplinary proceeding.

In accordance to Article 37(2) of Regulation 45/2001, traffic data can be kept for a maximum conservation period of 6 months after collection or even a longer period in order to establish or defend a right in a legal claim pending before a court. This provision can therefore apply in case specific traffic data are necessary to be kept in the context of an administrative inquiry or disciplinary investigation.

Rights of access, to rectify, to block and to erase:

A disciplinary procedure in progress does not affect the data subject's right of access to his or her personal file. In the course of a disciplinary procedure data subjects are granted full access to documents in their personal file without restriction. The right of access is the right of the data subject to be informed about any information relating to him or her that is processed by the data controller. Under Articles 1 and 2 of Annex IX of the Staff Regulations, the person has the right to express its comments on the conclusions of an administrative inquiry report, insofar as they are reporting facts concerning her. When the appointing authority decides to open a pre-disciplinary procedure (Article 3 of Annex IX), the person concerned has access to all the documents relating to it. The person can then reviews and correct, if necessary, the data concerning her. These rules are consistently communicated during the first interview with the person concerned.

Data related to data subjects other than the person under investigation may be present. The right of access of any person implied in the disciplinary procedure should also be taken into account, such as whistleblowers, informants or witnesses. Any possible restriction to the right of access of these persons will be in line with Article 20 of the Regulation. This right can be restricted to safeguard "the protection of the (...) rights and freedoms of others". The identity of whistleblowers will be kept confidential in the frame of administrative inquiries and disciplinary proceedings in as much as this would not contravene national rules regulating judicial procedures.

To exercise the right of rectification, the data subject should contact the controller. The right of rectification allows the data subject to add his or her comments but also to ensure completeness of his or her disciplinary file, as decisions made during the recourse or appeal procedure should be included in the disciplinary file. In addition, the decision will be placed in the personal file, or replaced or removed.

Should a restriction to the right of access or rectification be imposed, the data subject will be informed of the principle reasons for the application of the restriction and the right to have recourse to the EDPS for indirect access according to Article 20 (4). The information on the restriction to the rights of the data subject may be deferred for as long as such information would deprive the restriction of its effect.

As a general rule to restrictions, any restriction of access will be examined on a case by case basis and in the light of the principle of proportionality, and if necessary after the consultation of the DPO.

Recipients:

The complete file of the investigation, the pre-disciplinary or discipline is given to the disciplinary authority ("the AIPN") competent to decide the appropriate follow up. It is transmitted to the Disciplinary Board in case of opening of proceedings under the 5 section of Annex IX of the Staff Regulations. It is also transmitted to the external investigator (notably IDOC).

The disciplinary decision is sent for archiving to the service responsible for the management of personal files. It is communicated to OLAF when the procedure done is following an OLAF investigation. When the disciplinary decision has a financial impact on the career, it is forwarded to the PMO. It shall be communicated to the HRBA unit.

When the AIPN is seized of a case involving a national expert (END), the file is transmitted to the related member state via the permanent representation of it.

In case of dispute the disciplinary decision of the appointing authority by the party, the case is likely to be transmitted to the TFP, the TPI or the ECJ.

Only authorized persons with a need to know will receive the file (or parts of it) for an opinion or making a decision. The controller will remind all recipients of their obligation not to use the data received for other purposes than the one for which they were transmitted.

If data are transferred at the request of a national authority, it must establish the "necessity" for the transfer. If, on the other hand, data are transferred on the sole initiative of the EU institution, agency or body, it will be for the latter to establish the "necessity" for the transfer in a reasoned decision.

With regard to those countries which have not implemented a comprehensive data protection framework for judicial activities, the application of Article 9 of Regulation 45/2001 will be considered. It is to be noted that in such cases, the Council of Europe Convention 108 is applicable to judicial authorities. This Convention is in principle to be considered as adequate for the very specific intra EU transfers concerned.

In exceptional circumstances, external transfers may take place, for example, when data are transferred to third actors who have to play a role in the procedure or to judicial national authorities.

The necessity for transferring data will be carefully analysed beforehand, in compliance with Article 8 of the Regulation. If, on the other hand, data are transferred on the sole initiative of the EU institution, agency or body, it will be for the latter to establish the "necessity" for the transfer in a reasoned decision. If data are transferred at the request of a national authority, it must establish the "necessity" for the transfer.

In case of transfers to recipient not subject to the same Directive, the transfer will comply with Article 9 of the Regulation.

Where appropriate, queries or complaints can be sent to the person responsible for processing or to the EDPS Data Protection Officer (EDPS-DPO@edps.europa.eu).

8/ PROCEDURES TO GRANT DATA SUBJECTS' RIGHTS (RIGHTS OF ACCESS, TO RECTIFY, TO BLOCK, TO ERASE, TO OBJECT)

A disciplinary procedure in progress does not affect the data subject's right of access to his or her personal file. In the course of a disciplinary procedure data subjects are granted full access to documents in their personal file without restriction. The right of access is the right of the data subject to be informed about any information relating to him or her that is processed by the data controller. Under Articles 1 and 2 of Annex IX of the Staff Regulations, the person has the right to express its comments on the conclusions of an administrative inquiry report, insofar as they are reporting facts concerning her. When the appointing authority decides to open a pre-disciplinary procedure (Article 3 of Annex IX), the person concerned has access to all the documents relating to it. The person can then reviews and correct, if necessary, the data concerning her. These rules are consistently communicated during the first interview with the person concerned.

Data related to data subjects other than the person under investigation may be present. The right of access of any person implied in the disciplinary procedure should also be taken into account, such as whistleblowers, informants or witnesses. Any restriction to the right of access of these persons will be in line with Article 20 of the Regulation. This right can be restricted to safeguard "the protection of the (...) rights and freedoms of others". The identity of whistleblowers will be kept confidential in the frame of administrative inquiries and disciplinary proceedings in as much as this would not contravene national rules regulating judicial procedures.

To exercise the right of rectification, the data subject should contact the controller. The right of rectification allows the data subject to add his or her comments but also to ensure completeness of his or her disciplinary file, as decisions made during the recourse or appeal procedure should be included in the disciplinary file. In addition, the decision will be placed in the personal file, or replaced or removed.

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As a general rule to restrictions, any restriction of access will be examined on a case by case basis and in the light of the principle of proportionality, and if necessary after the consultation of the DPO.

9/ AUTOMATED / MANUAL PROCESSING OPERATION

Processing operation partly automated by with the use of IT tools for document management and other specific tools for possible monitoring of electronic communications.

10/ STORAGE MEDIA OF DATA

Individual Files (disciplinary file and personal file) and documents are by paper or electronic means (document management tools).

Documents contained the records are taken from the EDPS services, of the data subject itself and its legal representatives, of the investigator, of persons heard as a witness or expert in the investigation or pre-disciplinary procedures and disciplinary other persons or entities outside the EDPS (other institutions, agencies, national judicial authorities, etc...).

The information on the opening or closure of investigations, pre-disciplinary and disciplinary procedures are not disclosed to those persons and services with a need to know this information to ensure its implementation and follow up.

11/ LEGAL BASIS AND LAWFULNESS OF THE PROCESSING OPERATION

Legal basis: Article 86 and Annex IX to the Staff Regulations as well as by Articles 49, 50 and 119 of the Conditions of Employment of Other Servants - EDPS decision of 23 April 2015

Processing is lawful because of Article 5(a) of the "Regulation ("processing is necessary (...) in the legitimate exercise of official authority vested in the Community institution or body").

For the processing of special categories of data (if relevant for the case), Article 10.2.b of Regulation 45/2001 will apply as it may be justified if necessary for "*the purposes of complying with the specific rights and obligations of the controller in the field of employment law*".

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

The complete file of the investigation, the pre-disciplinary or discipline is given to the disciplinary authority ("the AIPN") competent to decide the appropriate follow up. It is transmitted to the Disciplinary Board in case of opening of proceedings under the 5 section of Annex IX of the Staff Regulations. It is also transmitted to the external investigator (notably IDOC).

The disciplinary decision is sent for archiving to the service responsible for the management of personal files. It is communicated to OLAF when the procedure done is following an OLAF investigation. When the disciplinary decision has a financial impact on the career, it is forwarded to the PMO. It shall be communicated to the HRBA unit.

When the AIPN is seized of a case involving a national expert (END), the file is transmitted to the related member state via the permanent representation of it.

In case of dispute the disciplinary decision of the appointing authority by the party, the case is likely to be transmitted to the TFP, the TPI or the ECJ.

Only authorized persons with a need to know will receive the file (or parts of it) for an opinion or making a decision. The controller is reminding all recipients of their obligation not to use the data received for other purposes than the one for which they were transmitted.

If data are transferred at the request of a national authority, it must establish the "necessity" for the transfer. If, on the other hand, data are transferred on the sole initiative of the EU institution, agency or body, it will be for the latter to establish the "necessity" for the transfer in a reasoned decision.

With regard to those countries which have not implemented a comprehensive data protection framework for judicial activities, the application of Article 9 of Regulation 45/2001 will be considered. It is to be noted that in such cases, the Council of Europe Convention 108 is applicable to judicial authorities. This Convention is in principle to be considered as adequate for the very specific intra EU transfers concerned.

13/ RETENTION POLICY OF (CATEGORIES OF) PERSONAL DATA

The EDPS will set up a specific separate disciplinary file which will contain all pieces of the administrative inquiry and of the disciplinary proceedings. Only the final disciplinary decision will be mentioned in the personal file

All files of the investigator will be transmitted to the EDPS. "Non cases" are kept for a period of 2 years.

The cases resulting in an administrative investigation without follow up are kept for 5 years, as well as cases resulting to a proceeding under Article 3 of Annex IX of the Staff Regulations where that procedure has not been followed by disciplinary proceedings.

The records that led to the opening of disciplinary proceedings are kept for a period of 20 years from the final decision of the appointing authority.

Regarding the maintenance of the disciplinary decision in the personal file, Article 27 of Annex IX of the Statute sets deadlines from which a data subject may request the removal of any mention of the sanction of disciplinary file, but decision-making belongs to the AIPN. The official concerned is informed that, even if the penalty contained in his personal file should be removed by application of Article 27 of Annex IX of the Staff Regulations, it will continue to be included in the records of the EPDS and for a period of 20 years from the decision which imposed the sanction. EDPS records will be available only through the official concerned or by the disciplinary authority.

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In accordance to Article 37(2) of Regulation 45/2001, traffic data can be kept for a maximum conservation period of 6 months after collection or even a longer period in order to establish or defend a right in a legal claim pending before a court. This provision can therefore apply in case specific traffic data are necessary to be kept in the context of an administrative inquiry or disciplinary investigation.

13 BIS/ TIME LIMITS FOR BLOCKING AND ERASURE OF THE DIFFERENT CATEGORIES OF DATA

(further to justified legitimate request from the data subject)- (Please, specify the time limits for every category, if applicable)

One month

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

N/A

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

In exceptional circumstances, external transfers may take place, for example, when data are transferred to third actors who have to play a role in the procedure or to judicial national authorities.

The necessity for transferring data will be carefully analysed beforehand, in compliance with Article 8 of the Regulation. If, on the other hand, data are transferred on the sole initiative of the EU institution, agency or body, it will be for the latter to establish the "necessity" for the transfer in a reasoned decision. If data are transferred at the request of a national authority, it must establish the "necessity" for the transfer.

In case of transfers to recipient not subject to the same Directive, the transfer will comply with Article 9 of the Regulation.

16/ FURTHER INFORMATION

N/A

17/ MEASURES TO ENSURE SECURITY OF PROCESSING²

Please check all points of Article 22 of Regulation (EC) 45/2001:

Disciplinary files and personal files are kept by HRBA in lock cupboards or on computers with passwords.

The data controller declares the accuracy of the above statements and undertakes to notify any change affecting this information to the Data Protection Officer.

PLACE AND DATE: BRUSSELS, **XX** MAY 2016

THE CONTROLLER: LEONARDO CERVERA NAVAS

² Not to be published in the EDPS' DPO Register (Article 26 of Regulation (EC) 45/2001)