



DATA PROTECTION NOTICE

Complaints Mechanism

1. Introduction

The European Union Agency for Asylum (hereinafter ‘the EUAA’ or ‘the Agency’) is committed to protecting your privacy. The EUAA collects and further processes personal data pursuant to [Regulation \(EU\) 2018/1725](#)¹ (hereinafter ‘the EUDPR’).

This Data Protection Notice explains *inter alia* the reasons for the processing of your personal data, the way we collect, handle and ensure protection of your personal data and what rights you have in relation to your personal data. It also specifies the contact details of the responsible Data Controller with whom you may exercise your rights, as well as of the Data Protection Officer (DPO) and the European Data Protection Supervisor (EDPS) to which you may have recourse as well to exercise the said rights.

2. Why and how do we process your personal data?

Your personal data are processed for the purpose of receiving, handling and addressing complaints received in the framework of the complaints mechanism that is established under the responsibility of the Fundamental Rights Officer (FRO) of the EUAA pursuant to Article 51 of Regulation (EU) 2021/2303 (the EUAA Regulation).

Your data are processed by the EUAA FRO in view of following the steps required for handling and addressing your complaints.

As a first step, the FRO will record the communication that you provide and send you an acknowledgement of receipt. The FRO may then contact you to receive further complementary information or to clarify the nature and scope of the complaint.

Based on the information you provide, the FRO will review your complaint's admissibility. This means that the FRO will review your complaint based on a set of criteria defined in Article 6 of the EUAA [Management Board Decision No 159](#) on the setting up of the complaints mechanism:

- a) the complaint is submitted by or on behalf of a person who alleges that they have been directly affected by the actions of an expert participating in an asylum support team;
- b) the facts alleged by the complainant in relation to the actions of that expert could be considered as a concrete violation of their fundamental rights;
- c) the complaint is substantiated, in the sense that sufficient information has been provided in support of the claims made in the complaint which would make it possible to ascertain that the alleged violation of fundamental rights has actually taken place, without prejudice to the

¹ 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 No 1247/2002/EC, OJ L 295, 21.11.2018, p. 39-98.





- possibility of the fundamental rights officer to request additional information as deemed necessary;
- d) the complaint is submitted in writing;
 - e) the complaint concerns facts which have occurred after 19 January 2022²;
 - f) the complaint is submitted within one year from the date on which the alleged violation of the fundamental rights occurred or from the date on which the complainant was informed or learnt about such violation, or, in cases where the complainant was prevented by any circumstance from making a complaint, from the date on which that circumstance ended;
 - g) the complainant is identified and provides their contact details, without prejudice to the right of the complainant to the confidential treatment of their complaint; and
 - h) the complaint is not abusive, malicious, frivolous, vexatious, hypothetical, or inaccurate.

Complaints which challenge a national authority's decision on an individual application for international protection shall be inadmissible.

Based on this review, the FRO will take a decision on admissibility. This decision will be in writing and will provide the reason for admissibility or inadmissibility. This decision will be communicated to you. In case the complaint is assessed as inadmissible, the FRO, where possible, shall provide you with further options for addressing your concerns. In case your complaint is deemed admissible, the FRO will inform you that the complaint has been declared admissible. The FRO will register the complaint and assign a registration number to it, which shall also be communicated to you.

The FRO will then forward the complaint to the Executive Director, together with their decision on admissibility. If the complaint concerns a Member State expert or seconded national expert, the FRO will forward the complaint to the home Member State together with the decision on the admissibility of the complaint. If the complaint concerns the actions of a staff member of the Agency, the Executive Director shall ensure that the Agency assesses the allegations contained in the complaint and that, if the facts as alleged are established, appropriate follow-up is given to the complaint. The processing of personal data happening within this context is covered by the respective data protection notice(s) (e.g. data protection notice on preliminary assessments, administrative inquiries and (pre-)disciplinary proceedings).

The FRO shall also inform the relevant authority or body competent for fundamental rights in the relevant Member State(s) of the complaint. Where a complaint is forwarded to a national authority or body, or where such authority or body is informed of a complaint, the FRO shall provide you with the contact details of that authority or body.

3. On what legal ground(s) do we process your personal data?

We process your personal data on the basis of Article 51 of the EUAA Regulation, because processing is necessary for the implementation of the complaints mechanism as described in the mandate of the Agency and complemented in the Management Board decision No 159. Consequently, the processing operation is lawful under Article 5(1) (a) of the EUDPR that refers to processing necessary for the performance of a task carried out in the public interest/exercise of official authority vested. In addition, as far as the complainant is concerned, submission of a complaint shall be deemed as

² The date of entry into force of the EUAA Regulation.





consent to the processing of his or her personal data within the meaning of Article 5(1) (d) of the EUDPR.

4. Which personal data do we collect and further process?

The following (categories of) personal data will be processed:

Personal data of complainant

Last name(s)

First name(s)

Age

Nationality

Email

Phone number

Address

A picture or copy of your ID, passport or other form of identification

Copies of any documentation, pictures, videos, reports, certificates, witness statements or other supporting documents relevant to your complaint (including personal data of the alleged perpetrator(s)).

Personal data of representative (if applicable)

Last name(s)

First name(s)

Email

Phone number

A picture or copy of your ID, passport or other form of identification

Copies of any documentation, pictures, videos, reports, certificates, witness statements or other supporting documents relevant to the complaint (including personal data of the alleged perpetrator(s)).

The Agency is aware that the content of a complaint may contain special categories of personal data within the meaning of Article 10(1) of the EUDPR.

5. How long do we keep your personal data?

Personal data are stored for 24 months following the closure of the complaint. A complaint is closed by decision of the FRO either if it has been deemed inadmissible or if deemed admissible, if a decision has been taken on its merits and on follow-up measures (if any).

6. How do we protect and safeguard your personal data?

In order to protect your personal data, we have put a number of technical and organisational measures as required under Article 33 of the EUDPR. Technical measures and organisational measures include the following.

- The FRO records the communication as a complaint (either via human data input or automatization via online form) in a system accessible only to the FRO team.





- If the complaint concerns a Member State expert or seconded national expert, the FRO forwards the complaint to national authorities. Personal data of the complainant is only shared with national authorities if the complainant waives their right to confidentiality as per Article 51(11) of the EUAA Regulation. Communication with national authorities happens via secure means.
- If a complaint is directly received via the online web-form, it is kept in the SharePoint system in a dedicated sensitive folder accessible only to the FRO team.
- If a complaint is received by email, it is uploaded and saved in the SharePoint system manually.
- If a complaint is received by post, it is scanned and saved in SharePoint system manually. The paper original is to be kept under lock and key under the responsibility of the FRO.
- Following transfer of a complaint to the Executive Director, the access to the dedicated sensitive folder containing the complaint is shared with the secretariat of the Executive Director.

7. Who has access to your personal data and to whom they are disclosed?

The following recipients have access to your personal data:

- the FRO's office;
- the EUAA Executive Director;
- EUAA staff members that may support the EUAA Executive Director with the further handling of a complaint, if the latter pertains to EUAA personnel;
- national authorities: personal data of the complainant is only shared with national authorities if the complainant waives their right to confidentiality as per Article 51(11) of the EUAA Regulation.

8. Do we transfer any of your personal data to third countries or international organisations (outside the EU/EEA)?

No

9. Does this processing involve automated decision-making, including profiling?

No

10. What are your rights and how can you exercise them?

According to the EUDPR, you are entitled to access your personal data and to rectify them in case the data are inaccurate or incomplete. If your personal data are no longer needed by the EUAA or if the processing operation is unlawful, you have the right to erase your data. Under certain circumstances, such as if you contest the accuracy of the processed data or if you are not sure if your data are lawfully processed, you may ask the Data Controller to restrict the data processing. You may also object, on compelling legitimate grounds, to the processing of data relating to you. Additionally, you have the right to data portability which allows you to obtain the data that the Data Controller holds





on you and to transfer it from one Data Controller to another. Where relevant and technically feasible, the EUAA will do this work for you.

The Data Controller may restrict the application of certain rights of the data subjects in duly justified cases, on the basis of the grounds stipulated in Article 25(1) of the EUDPR, following an assessment of their necessity and proportionality taking into account, inter alia, the risks to the rights and freedoms of data subjects. A restriction shall be lifted as soon as the circumstances that justify it no longer apply, in particular when it is considered that the exercise of the restricted right would no longer cancel the effect of the restriction imposed or adversely affect the rights or freedoms of other data subjects.

If you wish to exercise your rights, please contact the Data Controller, the FRO, by sending an e-mail to FRO@euaa.europa.eu.

You may always submit queries, remarks or complaints relating to the processing of your personal data to the Data Protection Officer (DPO) of the EUAA using the following e-mail address: dpo@euaa.europa.eu.

In case of conflict, complaints can be addressed to the European Data Protection Supervisor (EDPS) using the following e-mail address: edps@edps.europa.eu.

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