

RECORD OF A PERSONAL DATA PROCESSING ACTIVITY

according to Article 31 of [Regulation \(EU\) 2018/1725](#)



Personal data processing in the Decision Review Process in the context of pre-litigation or litigation and handling of complaints

1) Controller(s)¹ of data processing activity (Article 31.1(a))

EFSA unit in charge of the processing activity: Legal Affairs Services Unit

EFSA Data Protection Officer (DPO): DataProtectionOfficer@efsa.europa.eu

Is EFSA a co-controller? No

If yes, indicate who is EFSA's co-controller:

2) Who is actually conducting the processing? (Article 31.1(a))

The data is processed by EFSA itself ☒

Indicate the EFSA units or teams involved in the data processing: Legal Affairs Services Unit

The processing operation is conducted together with an external party ☒

Please provide below details on the external involvement:

In some instances, cases may be either fully or partially outsourced to external counsels or to DG HR of the European Commission (processors).

3) Purpose of the processing (Article 31.1(b))

The purpose of the processing operation regarding Decision review processes in the context of pre-litigation/litigation and handling of complaints and the collection and further processing of your personal data therein is:

- (1) To respond to applications, direct actions, complaints, requests for review against EFSA decisions, requests for assistance, appeals submitted or lodged for the establishment, confirmatory applications on requests for public access to documents, confirmatory applications on EFSA's confidentiality decisions, exercise or defence of legal claims in the context of litigation or (formal or informal) pre-litigation proceedings, e.g. pursuant to Articles 263 TFEU, Art. 228 TFEU, or the EU Code of Good administrative behaviour;
- (2) To ensure that complaints and requests are evaluated and replied timely and that internal and external stakeholders are informed;

¹ The controller decides on the purposes and means of the data processing. In case of joint controllership (e.g. systems of the European Commission applied by EFSA or jointly with another agency), EFSA is a co-controller.

(3) To provide the following services:

- ✓ To establish the relevant facts and to assess them from a legal point of view;
- ✓ To provide the person who submits the request/application/complaint/appeal with a decision.

4) Legal basis and lawfulness of the processing (Article 5(a)–(d)):

Processing necessary for:

- (a) a task carried out in the public interest or in the exercise of official authority vested in EFSA ☒
- (b) compliance with a legal obligation to which EFSA is subject ☒
- (c) performance of a contract with the data subject or to prepare such contract ☐
- (d) The data subject has given consent (ex ante, explicit, informed) ☐

Further details on the legal basis:

- The legal basis for the processing is provided by EFSA's duty to defend its actions or alleged omissions in the context of the abovementioned litigation / pre-litigation processes, as well as by Article 47 of Regulation (EC) No 178/2002 ;
- In case of external complaints, in accordance with Article 23 (j) of Regulation (EC) No 178/2002, EFSA shall "*ensure that the public and interested parties receive rapid, reliable, objective and comprehensible information in the fields within its mission*" ;
- In case of requests, complaints and appeals under the Regulation No 31 (EEC), 11 (EAEC), laying down the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Economic Community and the European Atomic Energy Community ('the Staff Regulations'/ SR), the processing is necessary to comply with legal obligations of EFSA, namely Art. 22c, 24, 90(1) and 90(2) of the SR as mandated by Art. 48 of Regulation (EC) No 178/2002 ;
- In case of complaints to the European Ombudsman, the legal basis for the processing is to be found in Art. 20, 24 and 228 of the Treaty of the Functioning of the European Union;
- For confirmatory applications on requests for public access to documents, the legal basis is Article 8 of Regulation EC No 1049/2001, while for confirmatory applications on EFSA's confidentiality decisions, the legal basis is Article 39b(2) of Regulation (EC) No 178/2002.

5) Description of the categories of data subjects (Article 31.1(c))

Whose personal data are processed?

EFSA statutory staff	<input checked="" type="checkbox"/>
Other individuals working for EFSA (consultants, trainees, interims, experts)	<input checked="" type="checkbox"/>
Stakeholders of EFSA, including Member State representatives	<input checked="" type="checkbox"/>
Contractors of EFSA providing goods and services	<input checked="" type="checkbox"/>
The general public, including visitors, correspondents, enquirers	<input checked="" type="checkbox"/>
Relatives of the data subject	<input checked="" type="checkbox"/>
Other categories of data subjects (please detail below)	<input checked="" type="checkbox"/>

Further details concerning the data subjects whose data are processed:

In case of external complaints, the data subjects concerned are the individuals lodging a complaint with EFSA or in case the complaint is lodged by an organisation or legal entity, its representatives as far as they are mentioned in the complaint itself.

6) Type of personal data processed (Article 31.1(c))	
a) General personal data	
The personal data concerns:	
Name, contact details and affiliation	<input checked="" type="checkbox"/>
Details on education, expertise, profession of the person	<input checked="" type="checkbox"/>
Curriculum vitae	<input checked="" type="checkbox"/>
Financial details	<input checked="" type="checkbox"/>
Family, lifestyle and social circumstances	<input checked="" type="checkbox"/>
Goods and services the person provides	<input type="checkbox"/>
Other personal data (please detail):	<input type="checkbox"/>
b) Sensitive personal data (Article 10)	
The personal data reveals:	
Racial or ethnic origin of the person	<input checked="" type="checkbox"/>
Political opinions or trade union membership	<input checked="" type="checkbox"/>
Religious or philosophical beliefs	<input checked="" type="checkbox"/>
Health data or genetic or biometric data	<input checked="" type="checkbox"/>
Information regarding the person's sex life or sexual orientation	<input checked="" type="checkbox"/>
<i>Further details concerning the personal data processed:</i>	

Personal data at stake in the Review Process concerning EFSA's acts and decisions are case specific. The specific personal data that might be processed depend on the individual case and the details provided in the request or complaint by the data subject.

For complaint processes: Data subjects have the possibility to request the confidential treatment of their complaint or certain parts thereof by indicating such a requirement in the complaint and by providing supporting reasoning or a justification.

7) Recipients of the data (Article 31.1(d))

Line managers of the data subject ☒

Designated EFSA staff members ☒

Other recipients (*please specify*): ☒

Recipients of data are determined on a case-by-case basis. In line with the principles of data minimisation and granting access on a need-to-know basis, these may include:

- ✓ Line managers of the data subject working for EFSA;
- ✓ Designated EFSA staff members on a need-to-know basis;
- ✓ EFSA's Executive Director;
- ✓ European Commission's DG HR staff members if the case is (partially or fully) outsourced to DG HR;
- ✓ External counsels contracted by EFSA if the case is (partially or fully) outsourced) to them;
- ✓ General Court and Court of Justice, and respective registrars in the performance of their judicial duties.

For complaints, the complainant's personal data is accessible only internally at EFSA, namely to:

- ✓ The Head of Unit and staff of the Legal Affairs Services Unit, in charge of the complaint handling process;
- ✓ EFSA staff in Units and teams concerned by the substance of the complaint;
- ✓ The Executive Director, when endorsing or signing the reply to the complaint;
- ✓ Staff in the Communication, Engagement & Cooperation Department (COMCO), in charge of media relations in case of sensitive complaints that may trigger reaction in the media and in copy to the reply to the complaint;
- ✓ EFSA staff of CORSER Unit and Service Desk where needed for technical reasons related to the complaints reception via EFSA's Relationship Management System;
- ✓ Additionally, institutions or bodies having a legitimate purpose of audit, of the exercise of supervisory tasks or in charge of judicial proceedings in relation to EFSA may have access: the Internal Audit Service, the EU Court of Auditors, the EU Ombudsman, OLAF, the EU Court of Justice, the European Data Protection Supervisor.

In certain cases, ensuring conformity with EUDPR principles (i.e. Art. 4 of the EUDPR, incl. purpose limitation and data minimization) and other applicable legal provisions, EFSA may share the reply to a complaint with an external stakeholder, or may make the reply publicly available.

8) Transfers to recipients outside the EEA (Article 31.1 (e))

Data are transferred to third country recipients:

Yes ☐ No ☒

If yes, specify to which third country:

If yes, specify under which safeguards:

Adequacy Decision of the European Commission	<input type="checkbox"/>
Standard Contractual Clauses	<input type="checkbox"/>
Binding Corporate Rules	<input type="checkbox"/>
Memorandum of Understanding between public authorities	<input type="checkbox"/>

9) Technical and organisational security measures (Article 31.1(g))

How is the data stored?

On EFSA's Document Management System (DMS)	<input checked="" type="checkbox"/>
On a shared EFSA network drive or in an Outlook folder	<input checked="" type="checkbox"/>
In a paper file	<input type="checkbox"/>
Using a cloud computing solution (please detail the service provider and main characteristics of the cloud solution, e.g. public, private)	<input checked="" type="checkbox"/>
On servers of an external service provider	<input type="checkbox"/>
On servers of the European Commission or of another EU Institution	<input checked="" type="checkbox"/>
In another way (<i>please specify</i>):	<input type="checkbox"/>

Please provide some general information on the security measures applied:

EFSA's system architecture including Microsoft Office 365 online is considered compliant with information security standards and EUDPR principles & rules.

External Complaints can also be handled in the following alternative ways depending on the way of receipt:

- Via EFSA Outlook email and stored on EFSA's Document Management System (DMS);
- Via EFSA's Relationship Management system based on the cloud-based (SaaS) platform provided by <https://www.salesforce.com/> CRM software. Some key information on the system is provided in the General Privacy Statement on EFSA's Relationship Management.

Data subjects also have the possibility to request confidential treatment of their complaint or certain parts thereof by indicating such a requirement in the complaint and by providing supporting reasoning or justification.

10) Retention period (Article 4.1 (e))

The retention period of the EFSA litigation or pre-litigation case handling and case handling of complaints is 10 years after closure of the case.

Files may be retained for a longer period in case an appeal is lodged before the Court of Justice of the European Union. In this case, data will be kept until there is no more possibility of appeal and the final decision has been ruled by the Court.

11) Consultation with the Information Security Officer

Was the ISO consulted on the processing operation?

Yes ☐ No ☒

If yes, please provide some details on the consultation with the ISO:

12) Information given to data subjects (Articles 15 and 16)

Has information been provided to data subjects on the way their data is processed including how they can exercise their rights (access, rectification, objection, data portability)? Usually this information is provided in a Privacy Statement, specifying the controller's contact details. As possible, please provide a link to the relevant Privacy Statement or a description.

- The Data Protection Notice for Decision Review processes in the context of litigation and pre-litigation and in the context of complaints will be available on a dedicated internal SharePoint page.
- For external complaints, the specific data protection notice is available on EFSA's website at: <https://www.efsa.europa.eu/en/contact/complaint> and <https://connect.efsa.europa.eu/RM/s/termsofuse/termofusecomplaints>. The Standard Operating procedure 'SOP 044 A - On the handling and processing of external complaints' is available on EFSA's website (<https://www.efsa.europa.eu/en/corporate/pub/sops>). The record for external complaints is available at: <https://www.efsa.europa.eu/en/personal-data-protection#register-of-records-on-personal-data-processing-activities>.

Last update of this record: October 2024

Reference: DPO/GOV/17