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Applicable to:

Members of the personnel and other persons concerned

Person responsible for the matter concerned:

Director-General

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THE PROCESSING OF PERSONAL DATA AT CERN

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I. INTRODUCTION

1. In carrying out the mission with which it is entrusted by its Member States, CERN, as an employer, a host laboratory and the entity responsible for the CERN site, collects and uses Personal Data related to people who interact with the Organization, including CERN “contributors” (members of the personnel, consultants, contractors working on the site, and persons engaged in any other capacity at or on behalf of CERN), the spouses and dependent children of members of the personnel, members and/or beneficiaries of the CERN Health Insurance Scheme and the CERN Pension Fund, prospective members of the personnel, suppliers and members of the public.
2. CERN is committed to respecting the security and confidentiality of the Personal Data for which it is responsible, in accordance with its Data Privacy Protection Policy¹. Data privacy and protection is also an integral component of the Code of Conduct².
3. In accordance with best practices, CERN processes only such Personal Data as is required for the proper functioning of the Organization.

II. PURPOSE AND SCOPE

4. The purpose of this Circular is to lay down the Organization’s legal framework for data privacy protection.
5. This Circular applies to all natural persons whose Personal Data is processed by the Organization and all persons and entities processing Personal Data on its behalf. It does not apply to the processing of Personal Data by a natural person in the course of a purely personal activity and that thus does not fall within the scope of professional duties or activities.

III. DEFINITIONS

6. **Personal Data** means any information, in any form or medium, relating to an identified or identifiable natural person. It includes data such as name, passport or other national registration details, CERN ID number, banking information, personnel records, images and video-surveillance footage, online and device identifiers, addresses and telephone numbers, and **Sensitive Personal Data**.
7. **Sensitive Personal Data** means any Personal Data relating to:
 - 7.1. physical or mental health;
 - 7.2. genetic or biometric data;
 - 7.3. racial or ethnic origin;
 - 7.4. sexual orientation;
 - 7.5. political, religious or philosophical opinions or beliefs.
8. **External Entity** means any natural or legal person operating outside the Organization’s structure.
9. **Data Controller** means CERN or an External Entity that, alone or jointly with other Data Controllers, determines the purposes and means of the processing of Personal Data. CERN is the

¹ Available at: <https://cds.cern.ch/record/2644373>

² Available at: <https://cds.cern.ch/record/2240689>

Data Controller for all processing of Personal Data falling under the scope of this Circular where CERN determines the purposes and means of processing Personal Data.

10. **Joint Data Controller** means two or more Data Controllers who jointly determine the purposes and means of processing of Personal Data. They determine, in a transparent manner, their respective responsibilities for compliance with the obligations referred to in this Circular.
11. **Data Processor** means CERN or an External Entity processing Personal Data on behalf of, and upon instructions from, the Data Controller.
12. **Data Subject** means any natural person, living or deceased, whose Personal Data is processed under this Circular. For the purposes of this Circular, the term **Data Subject** also covers any person authorised to act on behalf of the Data Subject concerned.
13. **Data Processing (or Processing or Processing operations)**, means all activities relating to Personal Data, whether manual or automated, such as the initial collection of Personal Data and its use, retention, storage, access, display, duplication, Transfer and destruction.
14. **Anonymisation** means an irreversible process that removes any data that can be used to identify a person either directly or indirectly, rendering the Data Subject unidentifiable by the Service Owner or by third parties.
15. **Data Security** means the organisational, physical and technical measures put in place to safeguard the integrity of Personal Data and prevent events and activities such as unauthorised access, modification, disclosure or destruction.
16. For the purposes of this Circular, a **Service** denotes one or more activities involving the Processing of Personal Data for the benefit of the Organization.³
 - 16.1. **Controlling Services** determine their own purposes and means of Data Processing.
 - 16.2. **Processing Services** process Personal Data solely on behalf of Controlling Services.
17. **Service Owner** means the person accountable for the Processing of Personal Data by their Service.
18. **Privacy Notice** means a published document that explains why the Organization processes Personal Data, details its Processing operations and informs Data Subjects of their rights (as set out in Section VII below).
19. **Record of Processing Operations** means the record that details the Personal Data Processing carried out by a Controlling Service.
20. **Profiling** means any form of automated Processing of Personal Data to evaluate certain aspects relating to a Data Subject, in particular – but not restricted to – their performance at work or behaviour.
21. **Data Privacy Impact Assessment** means a process carried out to identify the risks of Processing operations and their potential impact on Data Subjects and to determine any appropriate mitigation measures.
22. **Transfer** means disclosure, dissemination of or otherwise making available, including by granting access, of Personal Data to one or more Services or External Entities.

³ A Service does not necessarily correspond to an organic unit or a functional area.

- 23. **Consent** means the specific, informed, unambiguous and freely given permission of the Data Subject for the Processing of their Personal Data, given by a statement or by a clear affirmative action.
- 24. **Data Breach** means a breach of Data Security leading to the accidental or unlawful destruction, loss, alteration or unauthorised disclosure of, or access to, Personal Data transmitted, stored or otherwise processed.
- 25. **Misprocessing** means the Processing of Personal Data in a manner that does not comply with this Circular.
- 26. **Biometric Data** means Personal Data that results from specific technical Processing and relates to the physical, physiological or behavioural characteristics of a person and allows or confirms their unique identification.
- 27. **Genetic Data** means Personal Data relating to the inherited or acquired genetic characteristics of a person, which gives unique information about their physiology or health and which results, in particular, from an analysis of a biological sample taken from them.

IV. GENERAL PRINCIPLES

- 28. Services must be registered in the CERN Service Catalogue and each Service Owner shall be responsible for, and be able to demonstrate, their Service's compliance with this Circular.
- 29. The following general Processing principles shall be observed:
 - 29.1. Data Subject Rights (as set out in Section VII below) shall be respected;
 - 29.2. Personal Data shall be processed in a fair and transparent manner and in accordance with CERN's internal legislation (*inter alia* the Staff Rules and Regulations, the Rules and Regulations of the Pension Fund, the Rules of the CERN Health Insurance Scheme, and Operational and Administrative Circulars);
 - 29.3. Personal Data shall be collected for specified, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes. Further Processing for archiving, scientific or historical research or statistical purposes shall not be considered to be incompatible with the initial purposes;
 - 29.4. on an exceptional basis, further and/or additional Processing may be permitted, subject to the prior consultation of the Office of Data Privacy (ODP) (see Section V below). Where prior consultation is not feasible and the Processing is required for the immediate functioning of the Organization or is in the vital interests of the Data Subject, such Processing shall be permitted provided that the ODP is promptly notified;
 - 29.5. Data Processing shall be proportionate, adequate, relevant and the minimum required to achieve the stated purposes;
 - 29.6. Data Security measures adapted to the scope and nature of the data concerned shall be implemented;
 - 29.7. the accuracy of Personal Data shall be ensured to the extent possible; and
 - 29.8. Personal Data shall be retained only for as long as is strictly necessary to fulfil the stated purposes of Processing.

30. The Organization shall process Personal Data only on one of the following bases:
- 30.1. in order to enter into or execute a contract with the Data Subject;
 - 30.2. in order to apply its internal legislation and comply with its legal obligations;
 - 30.3. where necessary to pursue its legitimate interests⁴, provided that this does not outweigh the interests of the Data Subject that require the protection of Personal Data;
 - 30.4. where such Processing is in the vital interests of the Data Subject or another natural person;
or
 - 30.5. with the Consent of the Data Subject.
31. The Processing of Sensitive Personal Data shall be prohibited, except in the following situations, where:
- 31.1. such Processing is necessary for CERN to carry out its legal obligations, in particular in matters related to its personnel and to the provision and administration of health services or social insurance;
 - 31.2. a Transfer of Sensitive Personal Data is formally requested by a national authority or intergovernmental entity in the context of purposes such as public health, administration of justice or national security and the request has been deemed by the Director-General to be both reasonable and compatible with the status of the Organization;
 - 31.3. such Processing is necessary for CERN to carry out internal investigations or disciplinary procedures, or in the settlement of disputes;
 - 31.4. such Processing is necessary for the establishment, exercise or defence of legal claims;
 - 31.5. such Processing is necessary for the protection of the vital interests of the Data Subject or another person, and the Data Subject is legally or physically incapable of giving Consent;
 - 31.6. such Processing is essential for carrying out CERN's specific activities, provided that appropriate safeguards are implemented, and that no less intrusive measures are reasonably available;
 - 31.7. the Sensitive Personal Data has been manifestly made public by the Data Subject;
or
 - 31.8. the Data Subject has provided Consent to such Processing.
32. Personal Data relating to a person under 16 years of age may be processed only where absolutely necessary for the achievement of CERN's legitimate aims and as provided for in CERN's internal legal framework, or with the Consent of the person's parent or legal guardian.
33. All persons involved in Data Processing shall cooperate fully in data privacy protection matters, in particular in response to specific requests from the ODP.

V. OFFICE OF DATA PRIVACY

34. The ODP shall constitute a centre of expertise for Data Subjects and for Services and External Entities involved in Data Processing, on all issues related to the Organization's data privacy protection.

⁴ An interest is legitimate if the Processing is necessary for the performance of a task carried out in the exercise of the official activities of CERN or in the legitimate exercise of the official authority vested in the Organization.

35. The ODP shall provide guidance on the implementation of the provisions of this Circular.
36. The ODP shall maintain a common interface to enable Data Subjects to exercise their Data Subject Rights (as set out in Section VII below).
37. All issues that relate to data privacy protection shall require the timely involvement of the ODP.
38. The ODP shall have access to specific Processing operations where this is essential for the purpose of its functions. Such access shall not extend to the content of the Personal Data concerned without authorisation by the Director-General.
39. The ODP shall ensure that records are maintained of advice given and of compliance checks and other relevant functions performed by the ODP, as well as of all Data Breach notifications.
40. The ODP shall be represented in a cross-disciplinary group set up by the Management of the Organization to advise on data privacy protection issues.
41. The ODP shall be headed and managed by the Data Privacy Adviser (DPA).
42. The DPA shall be appointed by the Director-General for an initial period of three years, which may be extended or renewed by the Director-General at their discretion.
43. The mandate of the DPA shall be approved by the Director-General and published on the ODP website.
44. The DPA shall exercise their functions in an independent and impartial manner and shall maintain a direct reporting line to the Director-General.

VI. OBLIGATIONS OF THE ORGANIZATION

45. As Data Controller, the Organization shall implement the appropriate technical and organisational measures needed to ensure that Data Processing is performed in accordance with this Circular.
46. The Organization shall maintain an up-to-date and publicly accessible Privacy Notice, as well as an archive of all previous versions thereof.
47. The Organization shall provide relevant data privacy protection tools and training.

Record of Processing Operations

48. In accordance with the procedure established by the ODP, each Controlling Service shall establish one or more Records of Processing Operations relating to the Personal Data it processes.
49. The Record of Processing Operations shall contain at least all of the following information:
 - 49.1. the type(s) of Personal Data being processed;
 - 49.2. the purpose of its collection;
 - 49.3. the period for which it is retained;
 - 49.4. where applicable, details regarding use of automated decision making; and
 - 49.5. where applicable, details regarding Transfers of Personal Data.

50. The ODP shall ensure that the Records of Processing Operations are established and that a complete archive of such Records is maintained.
51. In the event of a change in the manner in which a Controlling Service processes Personal Data, the Service shall update its Record of Processing Operations accordingly and shall archive all previous versions.
 - 51.1. If the change could reasonably be considered as having a significant impact on Data Subjects, the Service shall obtain advice from the ODP on, *inter alia*, any additional notification requirements.
 - 51.2. If the change concerns Personal Data that is processed on a Consent basis, the Service shall individually notify the Data Subjects concerned of the updated Record of Processing Operations and obtain their ongoing Consent to the Processing.

Accuracy and relevance

52. Each Service shall take reasonable measures to correct or delete Personal Data that is inaccurate, excessive or unnecessary.
53. Each Service shall make reasonable efforts to notify other Services, as well as External Entities to which the Personal Data has been transferred, of any such measures taken and shall request that they undertake similar remedial action.

Data retention

54. The ODP shall issue retention period guidelines in order to ensure consistency throughout the Organization.
55. Each Controlling Service shall establish its own data retention periods on the basis of these guidelines, taking due account of:
 - 55.1. the general purpose of the Processing of the Personal Data in question;
 - 55.2. how long the Personal Data is reasonably required to be kept in order to fulfil such a purpose;
 - 55.3. the potential impact of the retention period on Data Subjects;
 - 55.4. financial and organisational costs, risks of breach and risks of unlawful Processing, as well as liabilities associated with the retention of the Personal Data; and
 - 55.5. measures needed to ensure that the Personal Data is kept up to date.
56. At the end of the retention period, or earlier if the purpose of the Data Processing has been fulfilled, each Controlling Service shall destroy or anonymise the Personal Data, as appropriate. Should this not prove possible, it shall put safeguards in place to prevent any continued or future Processing.

Data Security

57. The Organization shall periodically evaluate the effectiveness of its Data Security measures.

Data Privacy Impact Assessment

58. Prior to undertaking Processing operations that are likely to have a high risk of impacting Data Subjects, and taking into account the nature, scope, context and purposes of the Processing, each Controlling Service shall undertake a Data Privacy Impact Assessment, in accordance with the procedure established by the ODP. This is particularly the case when the Processing operation involves one or more of the following:
- 58.1. Processing of Sensitive Personal Data on a large scale;
 - 58.2. a significant technological change in the Processing; or,
 - 58.3. systematic monitoring of accessible areas on a large scale.
59. The Service Owner shall determine whether a Data Privacy Impact Assessment is required. If in doubt, they shall consult the ODP.
60. A single assessment can be carried out for multiple Processing operations that pose similar risks.
61. Data Privacy Impact Assessments shall be sent to the ODP, which maintains a record of the assessments carried out. Where the ODP considers that the proposed Processing operation is not proportionate to its stated purpose, it shall recommend how best to adapt the Processing operation. Where such adaptation is not feasible, the ODP can recommend that the Processing operation not be undertaken.

Privacy by design

62. Data Processing operations shall be designed and implemented in accordance with this Circular, taking into account the potential impact of the Processing on Data Subjects and the risks posed for them by the Processing, as well as the state of the art, the cost of implementation and the nature, scope, context and purposes of such Processing.
63. Service Owners shall keep detailed records of the privacy considerations that have been taken into account in the conception and design of the Processing operations.

Data Breach

64. In the event of a Data Breach, the Service concerned shall trigger the Organization's Data Breach response procedure.
65. Data Subjects shall be notified of any Data Breach that results in a high and unavoidable risk to them, where such notification does not involve disproportionate efforts.
66. This notification shall be established in accordance with advice provided by the ODP.

VII. DATA SUBJECT RIGHTS

67. Information on how to exercise the rights set out in paragraphs 68-88 below is published⁵ by the Organization in its Privacy Notice.

⁵ For instance, on the website of the ODP.

Right to information

68. Data Subjects shall have access to information on data privacy protection at CERN.

Right to access

69. Data Subjects are entitled to:

- 69.1. enquire about the legal basis and purpose underlying the Processing of their Personal Data;
- 69.2. request a copy of their Personal Data upon submission of an access request; and
- 69.3. enquire whether their Personal Data has been or is to be transferred to an External Entity, as well as about the safeguards taken.

Right to object

70. Data Subjects are entitled to challenge the legitimacy of the Organization's Processing of their Personal Data where they are able to demonstrate compelling reasons.

Right to correction

71. Data Subjects are entitled to request the prompt correction of their Personal Data, where they are able to demonstrate that the data is inaccurate or incomplete.
72. The ODP shall ensure that the Data Subject is notified of any measures taken in response to a request submitted under paragraph 71 and that reasonable efforts are made to notify any Services or External Entities acting as Controllers to which the Personal Data has been transferred and to request that said Controllers undertake similar measures.

Right to request temporary suspension of Processing

73. Data Subjects are entitled to request the temporary suspension of the Processing of their Personal Data for specified purposes where:
- 73.1. they demonstrate that the Personal Data is inaccurate and seek suspension until such time as correction or deletion can be effectively done; or
 - 73.2. it is no longer necessary for CERN to process the Personal Data but the Personal Data is required by the Data Subject for the establishment, exercise or defence of legal claims (e.g. the Data Subject may ask the Service to refrain from deleting the Personal Data).
74. Upon receipt of a reasonable request for the suspension of Processing, and pending a decision in respect of such a request, the Organization shall promptly refrain from any non-essential Processing of the Personal Data in question.
75. The ODP shall ensure that the Data Subject is notified of any measures taken in response to a request submitted in accordance with paragraph 73. If the request for suspension of Processing is granted, the Data Subject shall also be informed of any subsequent decision to lift the suspension and to resume the Processing of their Personal Data.

Right to deletion

76. Data Subjects are entitled to request the deletion of their Personal Data if:
- 76.1. the Personal Data was not collected in compliance with this Circular;
 - 76.2. the Personal Data is processed on the basis of Consent and said Consent has been withdrawn; or
 - 76.3. the Processing of their Personal Data is no longer necessary for the stated purpose of the Processing.
77. The ODP shall ensure that the Data Subject is notified of any measures taken in response to a request submitted in accordance with paragraph 76 and that reasonable efforts are made to notify Services or any External Entities to which the Personal Data has been transferred of such measures.

Right to portability

78. Data Subjects are entitled to promptly receive their Personal Data in a reasonable and reusable format, where:
- 78.1. the Personal Data was collected on the basis of Consent or a contract; and
 - 78.2. the Personal Data exists in digital format.
79. At the discretion of the Director-General, a portability request may be granted even where it does not meet the conditions provided for in paragraph 78.

Rights in respect of automated decision making

80. Data Subjects are entitled to be informed of automated decision making, including Profiling, that produces a legal or similarly significant effect on them.
81. Data Subjects are entitled to express their views and have them taken into consideration where such automated decision making impacts them.

Conditions governing the exercise of rights

82. Data Subjects wishing to exercise the rights set out in paragraphs 68-81 above shall submit a request via the common interface established by the ODP.
83. The Data Subject shall be required to prove their identity. CERN is entitled to ask for such information as it deems necessary in this regard.
84. The Organization has the discretion to deny a request if it deems it to be unreasonable, manifestly abusive, fraudulent or obstructive to the purpose of the Processing (e.g. due to its repetitive or unduly broad nature) or if granting the request would involve a disproportionate effort or violate the rights of other Data Subjects.
85. The Data Subject shall be entitled to receive a written response to their request, including the reasons for the decision, within 90 calendar days.
86. If the Data Subject is not satisfied with the Organization's response, they are entitled to exercise recourse in accordance with the two-tier system set out in paragraphs 100 and 126.

Restrictions

87. The rights set out in paragraphs 68-81 above may be restricted by the Director-General, at their discretion, on a temporary, exceptional and specific basis, where:
- 87.1. such restriction is necessary for the prevention, detection or investigation of possible misconduct or illegal activity;
 - 87.2. CERN has received a request for the Transfer of Personal Data from national authorities and the request has been deemed by the Director-General to be both reasonable and compatible with the status of the Organization; or
 - 87.3. such restriction is essential to safeguard the rights, safety and security of the Data Subject or of other individuals or the security of the Organization's premises or its functioning.
88. Wherever possible, any such decision by the Director-General shall promptly be made available, in writing, to the affected Data Subject(s).

VIII. TRANSFERS

Transfers within CERN

89. Personal Data shall be transferred between Services only for the purposes stated in their respective Records of Processing Operations.
90. Controlling Services shall inform the Services to which they transfer Personal Data of the Transfer to enable the latter to ensure that the appropriate organisational and technical measures are taken.
91. In addition, Services may transfer Personal Data to other Services where they have determined that this would be in the interests of the Organization and the ODP has been consulted. The ODP may recommend that additional safeguards be put in place.

Transfers to External Entities

92. Prior to transferring Personal Data to an External Entity, the transferring Service shall ensure that appropriate safeguards are in place, including enforceable Data Subject Rights and effective legal remedies for Data Subjects, and that the recipient has been instructed that Personal Data must be processed lawfully. Unless agreed otherwise, the External Entity shall not disclose or transfer Personal Data provided by CERN to any other party without the prior, specific written approval of CERN. Onward Transfers from the External Entity shall be subject to the same obligations.
93. Data Subjects shall be informed of the Transfer of their Personal Data to an External Entity, except where the Organization has a compelling reason not to so notify them.

IX. PROCESSING BY EXTERNAL ENTITIES

Processing as a Data Controller

94. When Data Processing is carried out by an External Entity as a Data Controller or Joint Controller with CERN, the Organization and the (other) Data Controller shall, in a transparent manner, determine their respective responsibilities for compliance with the obligations referred to in this Circular, in particular as regards the exercising of Data Subject Rights (as set out in Section VII

above), and their respective duties to provide the information referred to in paragraphs 45 and 47 by means of an arrangement between them.

95. As a Data Controller, the External Entity shall ensure that the Personal Data it processes is:
- 95.1. processed lawfully, fairly and in a transparent manner in relation to the Data Subject;
 - 95.2. collected for specified, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes;
 - 95.3. proportionate and, as such, adequate, relevant and the minimum required to achieve the stated purpose of the Processing;
 - 95.4. accurate and, where necessary, kept up to date;
 - 95.5. retained only for as long as is strictly necessary for the stated purpose of the Processing;
 - 95.6. processed in a manner that ensures the appropriate security of the Personal Data.
96. The External Entity shall be responsible for, and be able to demonstrate, compliance with paragraph 95.

Processing as a Data Processor

97. When Processing of Personal Data is to be carried out by an External Entity as a Data Processor, the Organization shall only use External Entities providing sufficient guarantees that they will implement appropriate technical and organisational measures in such a manner that the Processing meets the requirements of this Circular.
98. The Data Processing by an External Entity as a Data Processor shall be governed by an arrangement determining the subject matter, nature, purpose and duration of such Processing, as well as the type of Personal Data and the categories of Data Subjects concerned and the obligations and rights of both the External Entity and the Organization. The arrangement shall stipulate, in particular, that the External Entity:
- 98.1. processes the Personal Data only on documented instructions from the Organization;
 - 98.2. shall not engage another Data Processor without prior specific or general written authorisation by the Organization. In the case of general written authorisation, the External Entity shall inform the Organization of any intended addition or replacement of other Data Processors, thereby giving the Organization the opportunity to object to such changes;
 - 98.3. ensures that any Data Processor it engages to process Personal Data on its behalf complies with the obligations set out in this paragraph, and assumes all responsibility and liability towards CERN where the Data Processor it has engaged fails to fulfil its obligations;
 - 98.4. ensures that persons authorised to process the Personal Data have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality;
 - 98.5. takes appropriate Data Security measures, notifies CERN promptly of any Data Breach and assists CERN in complying with its obligations under this Circular;
 - 98.6. assists CERN in responding to requests from Data Subjects under this Circular;
 - 98.7. ensures respect for CERN's privileges and immunities, in particular the inviolability of its archives and documents;
 - 98.8. if requested by CERN, demonstrates its compliance with its data privacy protection obligations, and contributes to audits, including inspections, conducted by CERN or any appointed representative;

- 98.9. at the choice of CERN, permanently deletes or returns all Personal Data to CERN following completion of its contractual obligations or termination of the contract.

X. REPORTS AND GRIEVANCE MECHANISMS

99. All persons with knowledge of Misprocessing or potential Misprocessing shall file a report with the ODP.
100. Data Subjects shall have the right to file a grievance with the ODP if they consider that the processing of their own Personal Data infringes this Circular.
101. Reports under paragraph 99 and grievances under paragraph 100 that are frivolous, manifestly unfounded or made in bad faith may be immediately dismissed and may result in administrative and/or disciplinary actions.
102. The ODP shall evaluate the reports under paragraph 99 and grievances under paragraph 100 and, where it deems appropriate, shall inform the Service(s) involved of any recommended remedial action and/or advise any Data Subject(s) concerned of their right to lodge a formal complaint in accordance with paragraph 126.

XI. SUPERVISION MECHANISM

103. The purpose of this section is to set out how the application of this Circular is supervised at CERN.
104. The **Data Protection Commission (DPC)** is the Organization's independent data protection supervisory authority, mandated to:
- 104.1. monitor compliance with and ensure the application of this Circular, in particular the rights of Data Subjects and the obligations of the Organization on matters concerning Data Processing, in accordance with paragraphs 122-125 below;
 - 104.2. evaluate and, if necessary, investigate complaints lodged by Data Subjects, in accordance with the procedure set out in Section XII.

Data Protection Commission

105. The DPC consists of three members appointed by the Director-General who are not nor have been CERN members of the personnel or contractors and have demonstrated and recognised data protection expertise and experience. The members are recommended to the Director-General by a board composed of one representative each of the Director-General, the CERN Staff Association and the ODP.
106. The initial term of office of DPC members is three years. The Director-General may extend the term of a member once for up to three more years, after consultation of the Staff Association and the ODP. No further terms of office on the DPC are possible.
107. The members of the DPC shall accept standard terms of appointment.
108. Members shall act in complete independence and impartiality. They shall neither seek nor accept instructions from anyone.

109. Members shall keep matters arising from their functions confidential.
110. Members shall refrain from any act or activity that is incompatible with their functions or is morally or materially prejudicial to the Organization. The Director-General shall decide whether an act or activity is incompatible or prejudicial.
111. Members are required to recognise and disclose to the Director-General any cases where they have or may have a conflict of interest and must take appropriate action in respect thereof.
112. In the event that a member is not available to investigate a complaint, the Director-General, the Staff Association and the ODP shall agree upon an alternate member to be appointed on an *ad hoc* basis.
113. Members who fail to comply with their obligations may be subject to termination of their appointment.
114. Upon completion of their mandate, members shall separate from the Organization and may not become a member of the personnel.

General principles of functioning

115. The DPC shall exercise its functions reasonably and proportionally and be mindful of the international status of CERN.
116. The DPC shall perform its functions remotely.
117. The DPC shall meet at least once a year, or more often if it deems necessary. Where, exceptionally, the purpose of a meeting cannot be achieved remotely and the presence of the DPC is required on the CERN site, the related costs incurred by the DPC are borne by the Organization in accordance with its duty travel policy.
118. CERN shall provide the DPC with such resources as are necessary for its functioning. The DPC is also entitled to seek *ad hoc* expert input from any relevant CERN service.
119. The DPC shall make every effort to proceed by consensus. That failing, it shall proceed by majority, with the minority position also being recorded.
120. The DPC may adopt rules of procedure. The DPC shall communicate any such rules to the Director-General.
121. Every year, the DPC shall submit a written report to the Director-General, with a copy to the DPA, the Head of the Legal Service and the Head of the Internal Audit Service, containing, *inter alia*:
 - 121.1. statistics and analysis of complaints received, investigations undertaken, recommendations made and the resulting decisions of the Director-General; and,
 - 121.2. lessons learned and specific or general recommendations.

Compliance and supervisory functions

122. The DPC shall determine how best to carry out its compliance functions (pursuant to paragraph 104.1) in order to adequately ensure the Organization's compliance with this Circular. In so doing, it shall work together with pertinent CERN services and, as applicable, external service

providers, to define and carry out such assessments. The DPC shall have the support of the Internal Audit Service and the ODP, without prejudice to the duties and independence of the DPC and of these two services.

123. The ODP shall provide the DPC with its evaluation of reports and grievances filed pursuant to Section X of this Circular, as well as information regarding the implementation of its recommendations, if any.
124. The DPC shall be promptly notified by the ODP of Data Breaches, in particular of their nature and potential impact, and of any response actions.
125. To facilitate its supervisory functions, the DPC can:
 - 125.1. perform its own investigation and evaluation of reports and grievances filed pursuant to Section X of this Circular, as well as of Data Breaches. It shall communicate the decision to start an investigation to the Director-General, the ODP and the Head of the Legal Service;
 - 125.2. obtain access to Personal Data, from the Controlling Service and the Processing Service, in so far as such Personal Data is essential for the functioning of the DPC and limited to cases of complaints, compliance checks and investigations following reports and grievances;
 - 125.3. order, via the Director-General, a Controlling Service to communicate a Data Breach to the Data Subject;
 - 125.4. order, via the Director-General, a Controlling Service to restrict or discontinue Data Processing;
 - 125.5. order, via the Director-General, a Controlling Service to bring Data Processing into compliance with this Circular; and
 - 125.6. recommend appropriate follow-up measures to the Director-General.

XII. REDRESS MECHANISM

126. A Data Subject who has not achieved satisfaction after a grievance under paragraph 100 has been filed with the ODP may file a formal complaint in accordance with Section XII.
127. The Organization prohibits any form of retaliation against a complainant or any other person as a result of their participation in, or use of, the redress mechanism. Any attempted or actual retaliation should be brought to the attention of the Head of the Human Resources department and may result in disciplinary action.

Complaint mechanism

128. The complaint mechanism comprises two steps:
 - 128.1. firstly, the investigation process, the aim of which is to decide on the receivability of the complaint and, in the event that it is receivable, to investigate and establish the facts and to issue an opinion to the Director-General as to whether the rights of the complainant under this Circular have been violated; and
 - 128.2. secondly, the Director-General's decision and, where appropriate, action on the matter.

129. All persons involved in the investigation of a complaint shall maintain confidentiality to the greatest extent possible, including after the case has been dealt with. Information shall be shared strictly on a need-to-know basis.

a) *Complaint*

130. The Data Subject has 60 calendar days from receipt of the ODP's evaluation of their grievance to lodge a complaint with the DPC.
131. The Data Subject must use the standard complaint form of the Organization and include the following:
 - 131.1. a detailed statement of the facts, including how their own Personal Data was not processed in compliance with this Circular and the impact on the Data Subject;
 - 131.2. the ODP's evaluation of the Data Subject's grievance, as provided for in paragraph 102 of this Circular; and,
 - 131.3. any other relevant documentation.

b) *Initial assessment phase*

132. To be receivable, a complaint shall:
 - 132.1. be submitted within the time limit referred to in paragraph 130; and,
 - 132.2. satisfy the formal conditions set out in paragraph 131.
133. The DPC shall complete the initial assessment within 30 calendar days of receiving the complaint.
134. In the event that the DPC decides that the complaint is receivable, it shall notify the complainant and the Director-General in writing.
135. If the DPC considers that the complaint is irreceivable, it shall submit a recommendation outlining the grounds for irreceivability to the Director-General for a final decision. The DPC shall provide the complainant with a copy of this recommendation.
136. Within 30 calendar days of receiving the DPC's recommendation, the Director-General shall decide whether to accept its recommendation. The Director-General shall notify the complainant of the decision within five calendar days. The DPC and the ODP shall receive a copy of the decision. This decision may be challenged pursuant to paragraph 147.

c) *Investigation phase*

137. During its investigation, the DPC shall:
 - 137.1. review the initial grievance and the evaluation of the ODP;
 - 137.2. collect the observations of the Organization on the complaint, and any additional comments the complainant may have thereon; and,
 - 137.3. review the complaint and the collected observations and comments thereon.
138. At its discretion, and without prejudice to its broader powers as specified in paragraphs 122-125, the DPC may also:

- 138.1. request additional written statements and/or documentation;
 - 138.2. interview the complainant, representatives of the Organization and any pertinent witnesses, if required;
 - 138.3. obtain expert input from any relevant CERN service; and,
 - 138.4. gather any other information needed to perform its investigation.
139. The complainant may be accompanied or, in the event of *force majeure*, represented, during interviews by a member or former member of the personnel who is not otherwise involved in the process. To assist complainants who are not members of the personnel, the Organization shall maintain a list of members or former members of the personnel who are willing to provide such accompaniment or representation.
140. The DPC shall request the Organization to provide it with its observations within 60 calendar days of receiving the request. In exceptional circumstances, this deadline can be extended by the DPC by up to 30 calendar days.
141. Upon receipt of these observations, the DPC shall forward them to the complainant for any additional comments they may have. The complainant shall provide their comments to the DPC within 14 calendar days. In exceptional circumstances, the DPC may extend this deadline in seven-day increments.
142. The DPC shall complete its investigation within 60 calendar days of receiving the observations of the Organization or the additional comments thereon, if any, by the complainant. The DPC may extend this deadline once, by an additional 60 calendar days, in the event of exceptional circumstances, upon written notification to the complainant and the Director-General.
143. At the end of the investigation phase, the DPC shall provide the Director-General with a written investigation report, setting out:
- 143.1. a statement of the procedure followed;
 - 143.2. the persons interviewed;
 - 143.3. the documentation and any additional information considered in the course of the investigation;
 - 143.4. the facts established;
 - 143.5. its opinion(s) as to whether the facts establish that the complainant's Personal Data has been processed in a manner that is not compliant with this Circular; and
 - 143.6. possible recommendations with follow-up measures.
144. The DPC may recommend that the complainant be awarded appropriate remedies such as reimbursement of reasonable costs upon submission of appropriate supporting documents and, where the circumstances so justify, up to a maximum of 5,000 Swiss francs in moral compensation. In exceptional and well-justified situations, the DPC may recommend moral compensation of up to 10,000 Swiss francs.

d) *Decision making*

145. Within 30 calendar days of receiving the DPC's report, the Director-General shall decide whether to accept its opinion(s) and recommendations, if any, as well as whether to pursue any follow-up action. If the Director-General decides to pursue disciplinary action under

Chapter VI, Section 2 of the Staff Rules and Regulations and/or administrative action, the matter shall be referred to the Head of the Human Resources Department.

146. The Director-General shall notify the complainant of the decision within five calendar days. The DPC, the ODP and the unit responsible for providing the Organization's observations shall receive a copy of the decision. Such notification shall indicate the facts established in the course of the investigation and the opinion(s) set out in the report, as well as the decision of the Director-General and, where applicable, shall indicate the reasons for not following the DPC's recommendation. Unless the complainant objects within 30 calendar days from the date of notification of the Director-General's decision, a summary of the decision and the recommendation of the DPC shall be published.
147. Complainants may challenge the decision of the Director-General if they consider it affects them adversely:
 - 147.1. Complainants who have access to the Administrative Tribunal of the International Labour Organization (ILOAT) pursuant to the Staff Rules and Regulations may file a complaint with the ILOAT in accordance with the latter's Statute and Rules.
 - 147.2. Complainants who do not have such access to the ILOAT may challenge the decision via arbitration in accordance with paragraphs 148-162 below.

Arbitration

148. Any dispute lodged pursuant to paragraph 147(2) shall be the subject of final and exclusive arbitration according to the following procedure.
149. The complainant has 90 calendar days from receiving the decision of the Director-General, as provided for in paragraph 146 above, to notify the Director-General in writing of their intention to resort to arbitration.
150. Within 90 calendar days of receipt of such intent to resort to arbitration, the parties shall agree on an arbitrator selected from a list provided by CERN.
151. Only persons who
 - 151.1. are legally qualified;
 - 151.2. are admitted to practise law in one of CERN's Member States;
 - 151.3. can evidence relevant expertise in data privacy matters; and
 - 151.4. are not, and have not been in any other capacity, in or at the service of CERN,can be included on the list of arbitrators.
152. The arbitrator agreed upon cannot be, or have been in any way, in or at the service of the complainant.
153. The arbitrator shall act impartially in the execution of their duties.
154. The seat of the arbitration shall be Geneva (Switzerland).
155. The law governing the arbitration shall be this Circular, the statutory documents of CERN, public international law and the general principles of international administrative law.
156. The language of the arbitration shall be English or French, at the discretion of the complainant.

157. Subject to this Section, the arbitrator may conduct the arbitration in such a manner as they consider appropriate, provided that the parties are treated equally and that at every stage of the proceedings each party is given full opportunity to present their case.
158. The reasonable cost of the arbitration, excluding the individual costs incurred by the parties, shall be borne by CERN.
159. In principle, the parties shall each bear their own costs, without prejudice to the remedies below.
160. The arbitrator may award appropriate remedies to a complainant, including reasonable costs upon submission of appropriate supporting documents, and, where the circumstances so justify, up to a maximum of 5,000 Swiss francs in moral compensation. In exceptional and well-justified situations, the arbitrator may recommend moral compensation of up to 10,000 Swiss francs.
161. Each party may, within 15 calendar days of notification of the award, request the arbitrator to provide a written interpretation of the award or to correct computational or typographical errors. Such interpretation or correction shall be made known to the parties within 60 calendar days from the date of the request and shall become part of the award. The execution of the arbitral award shall be suspended pending delivery of such interpretation or correction.
162. Save to the extent required by law, the arbitral award shall not be published, or its contents made known to any third party, without the prior written approval of each party. Notwithstanding the foregoing, and unless the complainant objects within 30 calendar days from the date of notification of the award, a summary of the award and its outcome shall be published.
