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Ordinance of the ETH Board concerning the protection of personal data of personnel in the ETH Domain (ETH Domain Data Privacy Ordinance, ETH DPO)

of 8 December 2022 (Stand am 1. September 2023)

approved by the Federal Council on 22 February 2023

The ETH Board,

on the basis of Articles 27 paras. 5 and 6 and 37 paras. 3 and 3^{bis} of the Federal Personnel Law of 24 March 2000¹ (FPL) and Article 36a para. 4 of the ETH Law of 4 October 1991²,

decrees:

Chapter 1: General provisions

Section 1:

Scope of application and information rights of the personnel

Art. 1 Subject and scope

¹ This Ordinance applies to the processing of personal data of the following categories of personnel:

- a. Employees in the ETH Domain within the meaning of Article 1 para. 1 of the Personnel Ordinance for the ETH Domain of 15 March 2001³ (ETH PO);
- b. Professors within the meaning of Article 1 of the ETH Professorial Ordinance of 18 September 2003⁴;
- c. Employees in the ETH Domain and professors with a contract of employment concluded under private law;
- d. Persons applying for posts in the ETH Domain according to letters a–c;
- e. former employees in the ETH Domain according to letters a–c.

² Chapter 4 of this Ordinance also applies to persons working for institutions of the ETH Domain on a contractual basis or as contract staff.

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¹ SR 172.220.1

² SR 414.110

³ SR 172.220.113

⁴ SR 172.220.113.40

Art. 2 Informing the personnel

The employees or their representatives are informed before the introduction or amendment of an information system or database that will significantly affect the legal status or work of the employees.

Art. 3 Contact person for data protection matters

The Data Protection Officers of ETH Zurich and EPFL, the research institutes and the ETH Board act as contact persons for the employees in matters relating to data protection.

Section 2: Responsibilities and competences**Art. 4** Responsibilities

1 The Executive Boards of ETHZ and EPFL, the Directorates of the research institutes and the President of the ETH Board are responsible for the information systems they use.

2 The respective human resources (HR) departments and other authorised bodies are responsible for data processing in their own areas.

3 ETHZ, EPFL, the research institutes and the ETH Board issue a processing policy for their information systems in accordance with Article 6 of the Data Protection Ordinance of 31 August 2022⁵ (processing policy).

Art. 5 Competences

1 The relevant HR departments and the departments of ETHZ and EPFL responsible for recruiting and supporting professors (Offices for Faculty Affairs) process the data required for the performance of their work. They process in particular:

- a. information from application documents, employment contracts, job descriptions and employee appraisal forms;
- b. decisions based on employee appraisals;
- c. absences;
- d. medical certificates;
- e. the results of personality tests and tests used to identify potential;
- f. extracts from public registers;
- g. data relating to administrative, criminal or social measures.

2 The managers or persons acting under their instructions process the data that is required in connection with recruitment and in order to carry out their management duties, particularly the data in application documents and in objective-setting and

⁵ SR 235.11

performance assessment forms, and data on salary adjustments made on the basis of individual performance.

3 The necessary access rights are granted as follows:

- a. for information systems: by the Executive Board member of the relevant ETH or the member of the Directorate of the relevant research institute who is responsible for information systems;
- b. for IT systems of the ETH Board: by the Executive Director of the Staff of the ETH Board.

4 The HR departments and Offices for Faculty Affairs may grant restricted access rights to persons who require access to specific data in the course of their duties.

Section 3: Data protection and data security

Art. 6 Data security

1 ETHZ and EPFL, the research institutes and the ETH Board ensure compliance with the provisions of the Data Protection Act of 25 September 2020⁶ and the Data Protection Ordinance of 31 August 2022⁷. They are responsible for ensuring that the offices and persons that process data take appropriate organisational and technical measures and precautions to keep personal data secure.

2 Data collected in paper form must be kept under lock and key.

3 The data security of the information systems is governed by the Data Protection Ordinance of 31 August 2022, particularly Articles 1–4 and 6.

4 The processing policies of ETHZ and EPFL, the research institutes and the ETH Board contain more specific instructions regarding organisational and technical measures for safeguarding personal data.

Art. 7 Notification of processing activities

1 ETHZ and EPFL, the research institutes and the ETH Board notify the Federal Data Protection and Information Commissioner of their records of processing activities for registration at the time of the decision on the development of the project or the project approval (Art. 12 of the Data Protection Act of 25 September 2022⁸).

2 Automated processing of personal data (information systems) must be notified at the project stage (Art. 31 of the Data Protection Ordinance of 31 August 2022⁹).

⁶ SR 235.1
⁷ SR 235.11
⁸ SR 235.1
⁹ SR 235.11

Art. 8 Right to information, correction and deletion

1 The data subjects may assert their right to information, correction and deletion against the respective HR department, the Offices for Faculty Affairs or the independent doctor (Art. 48 below). The provisions of Article 23 apply.

2 Incorrect data must be officially corrected.

Art. 9 Logs

1 Access requests and changes in the information systems are continuously logged.

2 The logs are retained for one year, separately from the system in which the personal data is processed.

3 For the purpose of checking compliance with these regulations, the logs may be analysed by whichever body of the respective ETH, the respective research institute or the ETH Board is responsible for monitoring the data protection regulations.

Section 4: Retention periods, archiving and destruction**Art. 10**

1 The following time limits apply to the retention of data:

- a. for data about social measures and administrative, debt enforcement and criminal measures: five years after completion of the measure;
- b. for performance reviews and the results of personality tests or tests used to identify potential: five years after the review or test;
- c. for all other data in the personnel file and the HR information system: ten years after the termination of the employment relationship or the death of the employee.

2 After the expiry of the retention period, the data deemed worth archiving according to the Archiving Act of 26 June 1998¹⁰ and the Archiving Ordinance of 8 September 1999¹¹ is offered to the archive responsible and the remaining data is destroyed, subject to Article 38 paragraph 2 of the Data Protection Act of 25 September 2022¹².

3 Application dossiers submitted in paper form by unsuccessful job applicants are returned to them, with the exception of the letter of application, within three months of the date when the vacancy was filled. The other data is destroyed within three months. Special agreements with job applicants remain reserved. The data may be retained for longer if it is required for the processing of complaints in accordance with Article 13 paragraph 2 of the Gender Equality Act of 24 March 1995¹³.

¹⁰ SR 152.1

¹¹ SR 152.11

¹² SR 235.1

¹³ SR 151.1

4 Dossiers and data relating to applications for a professorship and all data collected while a person is working as a professor or adjunct professor will be retained and offered to the archive of the respective ETH after the death of the individual concerned.

Section 5: Disclosure of data

Art. 11 Internal disclosure of personal data

Disclosing data relating to an employee's private life on the intranet, in an internal medium of publication or on a noticeboard is permitted only with the written consent of the data subject. Consent may be granted by e-mail.

Art. 12 Address directories

ETHZ and EPFL, the research institutes and the ETH Board may publish the job titles and work contact details of employees in publicly available address directories; these may be in paper form or electronic form. The publication of photographs is permissible only with the written consent of the data subject. Consent may be granted by e-mail.

Art. 13 Disclosure of data to third parties

1 If a third party, particularly new employers, banks, credit institutions and landlords, requests information, data may be disclosed only with the written consent of the data subject or on the basis of a statutory obligation. The person who discloses the data must check whether the relevant consent or statutory obligation exists.

2 The consent of the data subject is deemed to have been given if they have designated another employee as the reference person for the information concerned.

3 The disclosure of data is restricted to the information necessary for the purpose of the enquiry.

4 The provisions of this article also apply to staff who are changing jobs within the ETH Domain.

5 The provisions of Article 37 remain reserved.

Art. 14 Disclosure of data in order to use computer services in external computer networks (cloud services)

ETHZ and EPFL, the research institutes and the ETH Board may disclose to IT service providers that offer their services on external computer networks the data required in order to use these services, particularly names and work e-mail addresses.

Art. 15 Recruitment and evaluation procedures for professors

Documents relating to recruitment and evaluation procedures for professors, especially peer reviews and references, are confidential.

Chapter 2: Application dossier

Section 1: General provisions

Art. 16 Form of application

- 1 ETHZ and EPFL, the research institutes and the ETH Board determine the form in which application dossiers may be submitted.
- 2 They may scan in application dossiers submitted in paper form.
- 3 Within the meaning of this Ordinance, documents relating to the recruitment and evaluation procedure and the appointment of professors also count as application dossiers.
- 4 Instead of face-to-face job interviews, ETHZ and EPFL, the research institutes and the ETH Board may use recordings of interviews conducted by video telephony and pre-recorded video interviews. These form part of the application dossier and are destroyed when the application process has been completed.

Art. 17 Content

- 1 The application dossier may contain sensitive personal data, especially in the curriculum vitae.
- 2 It may in particular contain the data listed in Annex 1.

Art. 18 Data processing

- 1 The HR departments, Offices for Faculty Affairs and persons with responsibility for making the selection process the data in the applicants' dossiers to the extent necessary for the performance of their tasks.
- 2 At the end of the application process, a successful job applicant's data is transferred to their personnel file (Art. 25–32) and to the information system for the management of personnel data (Art. 33–37).
- 3 The processing of the data of unsuccessful job applicants is governed by the provisions of Article 10 paragraphs 3 and 4.

Art. 19 Personality tests, reference requests

- 1 The explicit consent of the job applicant is required for the following investigations:
 - a. conducting personality tests, including handwriting analysis;
 - b. collecting references.
- 2 Before personality tests are conducted, job applicants must be informed of:
 - a. the purpose of the tests;
 - b. how the test results will be used;
 - c. the group of people who will be informed of the test results.

Section 2: Information systems for applications

Art. 20 Purpose

ETHZ and EPFL, the research institutes and the ETH Board each operate an information system for applications, which is used to advertise posts and simplify the application process.

Art. 21 Structure

1 The information systems consist of two components: job advertisement and application management.

2 The job advertisement component is used for the production and publication of job advertisements.

3 The application management component is used to record necessary information relating to the jobs advertised and to process the data of job applicants.

Art. 22 Access rights

1 The persons specified in Article 5 paragraph 3 grant access rights for an unlimited duration at the request of the HR departments and the Offices for Faculty Affairs.

2 In individual cases, the HR departments and the Offices for Faculty Affairs may grant access rights to other persons with responsibility for making the selection, provided that, and for as long as, this is necessary for the performance of their tasks.

Art. 23 Right to information, correction and deletion

In the case of an electronic job application, the right to information, correction and deletion may be accorded by granting the relevant access rights to the job applicant.

Art. 24 Use of external IT systems for job applications (platforms)

ETHZ and EPFL, the research institutes and the ETH Board may use the IT systems of external providers for job advertisements and applications. They ensure that processors comply with the provisions on data processing.

Chapter 3: Personnel file

Section 1: General provisions

Art. 25 Content

1 The personnel file may contain the following categories of personal data, including sensitive personal data:

- a. Information about the person, their nationality, family and dependants;

- b. Information from the application documents and data collected as part of the application process, including the results of a personality test in accordance with Article 19;
- c. Data about health in relation to the employment relationship, particularly doctors' certificates, absences through illness and accident, reports from an independent doctor, suitability assessments and Case Management data;
- d. Information on performance, competencies and potential;
- e. Employment references;
- f. Legally binding decisions by authorities, appeal bodies or courts, especially for attachment of earnings, orders issued by the Personnel Security Screening Unit, extracts from court rulings for the purpose of establishing entitlement to family allowances, documents relating to employment disputes and documents relating to disciplinary investigations;
- g. Notifications to the compensation funds for old-age and survivors' insurance (AHV), disability insurance (IV), loss of earnings compensation (EO) and unemployment insurance (ALV), and to the Family Allowances Offices, the Swiss National Accident Insurance Organisation (Suva) or another accident insurance organisation, the federal pension fund (Publica) and the military insurance scheme (social insurances), as well as communications and decisions by these insurance schemes and any foreign insurance schemes.

2 The personnel file may in particular contain the data listed in Annex 2 in electronic form or on paper.

Art. 26 Data processing

The HR departments, the Offices for Faculty Affairs, internal specialists acting under their instructions, third parties they have commissioned, the line managers responsible and the legal services departments process the data in the personnel files to the extent necessary for the performance of their tasks.

Art. 27 Retention of the personnel file in the event of transfer within the ETH Domain

1 If an employee transfers to the other ETH, another research institute or to the Staff of the ETH Board, their personnel file shall not be sent to the new employer unless agreed otherwise with the employee.

2 With the agreement of the employee, the new employer may request the previous institution to send it the documents already submitted by the employee.

Art. 28 Retention, archiving and destruction

The retention, archiving and destruction of the data in the personnel file are governed by Article 10 of this Ordinance.

Section 2: Information system for personnel files

Art. 29 Purpose

ETHZ and EPFL, the research institutes and the Staff of the ETH Board each operate an information system for personnel files, which is used for the electronic administration, management and storage of employees' personal data.

Art. 30 Data in the information system for the management of personnel data

Data which is not especially sensitive may be imported from the respective information system for the management of personnel data (ISMPD).

Art. 31 Access rights

1 To the extent necessary for the performance of their tasks, the HR departments and Offices for Faculty Affairs may have access to the data in the respective information system for personnel files.

2 They may grant access rights to line managers, the respective legal services department and internal specialists.

Art. 32 Right to information

If a member of staff asks to inspect their personnel file, the respective HR department may grant them time-limited access to their own data.

Chapter 4: Information system for the management of personnel data

Art. 33 Purpose

ETHZ and EPFL, the research institutes and the ETH Board each operate an ISMPD that is used for the performance of the following tasks:

- a. the central administration of personal data relating to employees and the management of this data;
- b. processing salary data and conducting evaluations, budget simulations and personnel cost planning;
- c. the administration of relevant data for manager training and development.

Art. 34 Content

1 The ISMPD may contain the following categories of personal data, including particularly sensitive personal data:

- a. Information about the person, their family and their dependants, especially personal details, membership of employee organisations for the collection of

membership fees, secondary employment requiring approval and public offices;

- b. Data about health in relation to the employment relationship, especially absences caused by illness and accident;
- c. Information about performance, competencies and potential, especially the person's assessment level, language skills and training progress;
- d. Information about decisions by authorities and courts, especially in relation to attachments of earnings, family allowances, salary demands and severance payments;
- e. Information about decisions by social insurance schemes, especially statements and information about reduced capacity to work.

² ETHZ and EPFL, the research institutes and the ETH Board list the data contained in their ISMPD in their processing policies.

Art. 35 Structure

The ISMPD may comprise the following components:

- a. Organisation management for mapping the organisational and functional personnel structure;
- b. Personnel data management for managing the personal data of employees;
- c. Payroll accounting for the calculation and payment of staff salaries;
- d. Personnel time management for the administration of time data;
- e. Personnel cost management for the planning and controlling of personnel costs;
- f. Personnel development for staff career planning and development planning, including the training and support of apprentices;
- g. Travel management for recording of and accounting for trips taken, including travel costs and expenses;
- h. Employment references;
- i. Absence management.

Art. 36 Access rights and data processing

¹ The HR and finance departments and the support units have access to the ISMPD and process the data, to the extent necessary for the performance of their tasks.

² Employees may process their own data in the ISMPD, particularly personal details, time data, expenses and bank account details, provided they have access rights.

³ Line managers may inspect and approve the data relating to the staff who report to them, particularly time data, expenses and competencies, provided they have access rights.

4 Auditors checking the allocation of resources, e.g. in relation to research projects with third-party funding, may be granted access to the data they need to inspect for the performance of their tasks.

5 The processing policy for the information system gives specific details regarding access rights and the extent of data processing by users.

Art. 37 Disclosure of data

1 Data from the ISMPD may be disclosed to other information systems, provided that:

- a. the other information system is subject to a statutory obligation with regard to the disclosure of data and is subject to a formal law with regard to the disclosure of sensitive personal data;
- b. the information system is registered with the Federal Data Protection and Information Commissioner;
- c. the information system has its own processing policy; and
- d. no increased security requirements apply to the personnel data.

2 The HR departments may inform Publica about data in the ISMPD that it requires for the performance of its tasks.

Chapter 5: Information system for personnel controlling

Art. 38 Purpose

ETHZ and EPFL, the research institutes and the ETH Board each operate an information system that is used for personnel controlling.

Art. 39 Content

1 The information system for personnel controlling contains the following categories of sensitive personal data:

- a. Data about health in relation to the employment relationship, especially absences caused by illness and accident;
- b. Information about performance and competencies.

2 The data for the information system for personnel controlling is imported from the ISMPD.

3 The data contained in the information system for personnel controlling is listed in the respective processing policy.

Art. 40 Structure

The information system for personnel controlling comprises the following components in particular:

- a. Organisation management;

- b. Personnel data management;
- c. Payroll accounting;
- d. Staff time management;
- e. Personnel costs management;
- f. Staff development;
- g. Travel cost accounting.

Art. 41 Access rights and data processing

1 The HR and finance departments and the support units have access to the information system for personnel controlling and process the data, to the extent necessary for the performance of their tasks.

2 The scope of the processing rights is defined in the processing policy (Art. 4 para. 2).

Art. 42 Disclosure of data

Data, including sensitive personal data, from the information system for personnel controlling may be disclosed to other information systems, provided that:

- a. the other information system is subject to a statutory obligation with regard to the disclosure of data and is subject to a formal legal framework with regard to the disclosure of sensitive personal data;
- b. the information system is registered with the Federal Data Protection and Information Commissioner;
- c. the information system has its own processing policy; and
- d. no increased security requirements apply to the personnel data.

Chapter 6: Information system for staff training and development

Art. 43 Purpose

1 The research institutes, ETHZ and EPFL as well as the ETH Board each operate an information system for staff training and development; these are used to perform the following tasks:

- a. Recording and publicising training projects;
- b. Planning and conducting training;
- c. Managing training processes;
- d. Reviewing training;
- e. Managing competences;

- f. Storing digital course documentation, such as documents, study programmes, training videos and online tests;
- g. Communication between course leaders and course participants;
- h. Conducting online surveys for evaluation purposes.

² ETHZ and EPFL and the research institutes may restrict this information system to training and development courses outside their own teaching and research activities.

Art. 44 Content

The information system for staff training and development contains details about the person and their job, as well as their role in the training project, the courses undertaken and the competencies acquired.

Art. 45 Access rights and data processing

Course participants, persons responsible for training and management, course convenors, course administrators, support staff and course leaders have access to the information system for staff training and development and process the data, to the extent necessary for the performance of their tasks.

Art. 46 Data collection

The relevant bodies collect the data for the information system for staff training and development from the course participants and the ISMPD.

Chapter 7:
Information system for employee counselling and support

Art. 47

¹ ETHZ and EPFL, the research institutes and the ETH Board may each operate a counselling and employee support information system that is used for the electronic administration, management and storage of data about persons who access the employee counselling service or make use of the Case Management unit.

² Counselling or Case Management files may contain particularly sensitive personal data, particularly about employees' personal circumstances, that may affect the employment relationship.

³ ETHZ and EPFL, the research institutes and the ETH Board may scan in case files submitted by external case managers in electronic or paper form.

Chapter 8: Health data

Art. 48

¹ The HR departments are informed only of the conclusions of medical reports and investigations. The content of medical files is not made available to the relevant HR department or to third parties unless the data subject has given their written consent. If no consent has been given, the legal services departments of ETHZ, EPFL, the research institute or the ETH Board or, if the respective body has no legal services department, the Data Protection Officer, may authorise the disclosure of health data in accordance with Article 28 paragraph 3 FPL.

² Medical files (including in particular the results and findings of investigations and reports by independent doctors) that are required in order to assess the suitability of employees on recruitment and during the employment relationship, or in connection with the obligation to continue to make salary payments, are kept by the independent doctor in accordance with Article 47 ETH PO¹⁴.

Chapter 9: Final provisions

Art. 49 Amendment of other decrees

The following decrees are amended as follows:

...¹⁵

Art. 50 Entry into force

This Ordinance enters into force on 1 September 2023.

¹⁴ SR 172.220.113

¹⁵ The amendments may be consulted in the Official Compilation of Federal Legislation AS 2023 124.

Annex I
(Art. 17)

Data in the application dossier

Photo

Salutation

Title

First name

Last name

Date of birth

E-mail address

Password

Language of correspondence

First language

Street

Postcode

Town/city

Country

Telephone

Letter of application

Curriculum vitae

Certificates, diplomas, list of publications, references and other documents

Other documents and files that the applicant makes available to the employer

(Video) recordings

Data in the personnel file**1 Staff recruitment**

Application dossier
Employment documents
Security-related documents

2 Personnel management

Personal data including nationality, place of birth, sex, marital status, data on family and dependants, emergency contacts
Job descriptions
Details of performance
References
Working hours
Staff deployment
Disciplinary matters
Copy of official identity document
Permits
Public offices and secondary employment
Court rulings and decisions by authorities in connection with data in section 2

3 Employee remuneration

Salary/allowances
Expenses
Bonuses
Fringe benefits/perquisites
Supplementary childcare
Court rulings and decisions by authorities in connection with data in section 3

4 Social insurance schemes

AHV/IV/EO/ALV
Suva/accident insurance
Family allowances

Publica

Military insurance

Court rulings and decisions by authorities in connection with data in section 4

5 Health

Certificate of fitness on entry

Assessment of medical fitness

Doctors' certificates

Authorisation for medical doctors and insurance companies

Enquiries to and statements from independent doctors

Length of absences due to illness and accident

6 General insurance

Documents relating to liability cases

Damage to personal effects

7 Staff development

Education and training

Development measures

Qualifications

Behavioural and technical competencies

Results of personality tests and assessments of potential

Management development

Basic vocational training

8 Departure/transfer

Notice of termination from employer

Notice of termination from employee

Retirement

Death

Departure formalities

Transfer formalities

9 Special categories of personnel

Persons selected by the Federal Council