

REGISTER NUMBER: 143

NOTIFICATION FOR PRIOR CHECKING

Date of submission: 17/01/2007

Case number: 2007-027

Institution: OLAF

Legal basis: article 27-5 of the regulation CE 45/2001⁽¹⁾

(1) OJ L 8, 12.01.2001

INFORMATION TO BE GIVEN⁽²⁾

(2) Please attach all necessary backup documents

1/ Name and adress of the controller

2) Name and First Name of the Controller:MAKELA Mika

3) Title:Head of Unit

4) Directorate, Unit or Service to which the Controller is attached:C.04

5) Directorate General to which the Controller is attached:OLAF

2/ Organisational parts of the institution or body entrusted with the processing of personal data

26) External Company or Directorate General to which the Processor is attached:

25) External Company or Directorate, Unit or Service to which the Processor is attached:

3/ Name of the processing

Information and Intelligence data pool

4/ Purpose or purposes of the processing

To further OLAF intelligence/analysis and operational activity; to support specific case requests, operations and investigations with a view to ensuring the optimum accuracy and relevance of information received, disseminated and otherwise processed for intelligence, financial, administrative, disciplinary and judicial use. This support may be provided throughout the various stages of OLAFs investigation and operational activities, over all sectors as described in the Master Notifications Investigations and Operations (DPO-6) and Follow up (DPO-1) and is recorded within CMS (DPO-73) where applicable. OLAFs operational intelligence role is also to support the control, intelligence and enforcement activities in Member States, for OLAF partners and for Operational DGs. For example, in the context of enhancement of data exchanged as described in sub-notifications Exchanges under Mutual Assistance (DPO-102). Chapter 2.4.3 of the OLAF manual further explains the role of OLAFs operational intelligence.

5/ Description of the category or categories of data subjects

14) Data Subject(s) concerned:

Staff of the EU institutions, bodies, offices and agencies subject to OLAF investigations or assessments or otherwise involved in the matter under investigation or assessment (whistleblowers, informants and witnesses);

Persons outside the EU institutions, bodies, offices and agencies , who are mentioned in the documents kept in the file as a result of the investigative or assessment activities (eg managers of the companies concerned, informants and witnesses).

Persons outside the EU institutions, bodies, offices and agencies , who are involved in matters which are the subject of operational activity by OLAF and its operational partners (eg during Joint Customs Operations: managers of the companies concerned).

16) Category(ies) of Data Subjects:

Staff of the EU institutions, bodies, offices and agencies subject to OLAF investigations or assessments or otherwise involved in the matter under investigation or assessment (whistleblowers, informants and witnesses);

Persons outside the EU institutions, bodies, offices and agencies , who are mentioned in the documents kept in the file as a result of the investigative or assessment activities (eg managers of the companies concerned, informants and witnesses).

Persons outside the EU institutions, bodies, offices and agencies , who are involved in matters which are the subject of operational activity by OLAF and its operational partners (eg during Joint Customs Operations: managers of the companies concerned).

6/ Description of the data or categories of data (including, if applicable, special categories of data (article 10) and/or origin of data)(including, if applicable, special categories of data (article 10) and/or origin of data)

17) Data field(s) of Data Subjects:

Attention: Please indicate and describe in the answer to this question also data fields which fall under article 10

Surname, forename, maiden name, alias, date of birth, place of birth, country of birth, passport number, nationality, gender, marital status, family members, address, communication details (telephone and fax number), e-mail address, website

No data fields which fall under article 10.

The EDPS indicated in his opinion regarding OLAF's internal investigations notification that the marital status and children data fields should not be processed in the context of such investigations. (Case 2005-418, opinion dated 23/06/2006.) As a result of a CMS request, OLAF intelligence extracts data from SYSPER II (see e-mail from the OLAF DPO to the EDPS responding to the survey of inter-institutional processing operations, dated 27/04/2006, p. 3.) Due to the nature of the SYSPER II, details of children and marital status are included by default in the information thereby gathered. These data fields are not, however, further

18) Category(ies) of data fields of Data Subjects:

Attention: Please indicate and describe in the answer to this question also categories of data fields which fall under article 10

Identification and contact data; professional data; case involvement data.

No categories of data fields which fall under Article 10.

7/ Information to be given to data subjects

15a) Which kind of communication(s) have you foreseen to inform the Data Subjects as described in articles 11 - 12 under 'Information to be given to the Data Subject'

Information is provided to the data subject in the context of the investigation, as explained in response to Question 15 of the Investigations and Operations Master Notification (DPO-6).

The provision of this information may be restricted, when necessary, on a case-by-case basis, to safeguard the investigation, detection and prosecution of fraud or irregularities affecting the EU budget, in accordance with Article 20(1)(a) and (b).

Individuals whose names appear in the documentation under analysis, but who are not persons concerned, witnesses, whistleblowers or informants, do not receive an individual "information to be given to the Data Subject" because the provision of such information would be impossible or would involve a disproportionate effort, in light of the large number of individuals concerned. These individuals have no relevance to the matter

8/ Procedures to grant rights of data subjects (rights of access, to rectify, to block, to erase, to object) (*rights of access, to rectify, to block, to erase, to object*)

15b) Which procedure(s) did you put in place to enable Data Subjects to exert their rights: access, verify, correct, etc., their Personal Data as described in articles 13 - 19 under 'Rights of the Data Subject' :

See the reply to question 15 (a).

9/ Automated / Manual processing operation

7) Description of Processing:

Attention: Please describe in the answer to this question if you process personal data falling under article 27 "Prior-Checking (by the EDPS - European Data Protection Supervisor)"

See attachment.

8) Automated Processing operation(s):

See reply to Question 7.

9) Manual Processing operation(s):

See reply to Question 7.

10/ Storage media of data

Paper and hard disk.

The overall context is provided by notifications IT infrastructure (DPO-97) and CMS (DPO-73).

In computer forensics, a case file is created from the evidence files. OLAF case handlers can access the case files only in the OLAF-forensic lab which is physically separated from the NET1-domain.

11/ Legal basis and lawfulness of the processing operation

11) Legal basis of Processing:

Operational intelligence and information support are essential aspects of OLAFs mandate to fight fraud, corruption, and any other illegal activity affecting the financial interests of the European Community, and serious matters relating to the discharge of professional duties, as established in Article 1 of Regulation (EC) No 1073/1999;
Commission Decision 1999/352/EC Article 2 (5).

12) Lawfulness of Processing:

Answering this question please also verify and indicate if your processing has to comply with articles 20 "Exemptions and restrictions" and 27 "Prior checking (by the EDPS)"

The processing operations are necessary for the performance of tasks carried out by OLAF pursuant to its mandate, as referred to in reply to Question 11 and thus lawful pursuant to Article 5 (a) of the Regulation no 45/2001.

Exemptions and restrictions pursuant to Article 20 (1) (a) and (b) of Regulation 45/2001 may be applicable to this processing activity.

This processing is subject to prior checking according to Article 27 (2) (a) of the Regulation 45/2001.

12/ The recipients or categories of recipient to whom the data might be disclosed

20) Recipient(s) of the Processing:

OLAF case handlers; concerned EU institutions, bodies, offices or agencies; competent national authorities; competent third country authorities and international organisations.

21) Category(ies) of recipients:

OLAF case handler responsible for the relevant case; concerned EU institutions, bodies, offices or agencies; competent national authorities; competent third country authorities and international organisations.

13/ retention policy of (categories of) personal data

OLAF may keep both electronic and paper files in support of investigation and operational activities for up to 20 years after the end of the closure of the case or follow up actions and any appeals.

13 a/ time limits for blocking and erasure of the different categories of data (on justified legitimate request from the data subject) (Please, specify the time limits for every category, if applicable)
(on justified legitimate request from the data subject)
(Please, specify the time limits for every category, if applicable)

22 b) Time limit to block/erase data on justified legitimate request from the data subjects

One month

14/ Historical, statistical or scientific purposes

If you store data for longer periods than mentioned above, please specify, if applicable, why the data must be kept under a form which permits identification,

22 c) Historical, statistical or scientific purposes - If you store data for longer periods than mentioned above, please specify, if applicable, why the data must be kept under a form which permits identification

Not applicable.

15/ Proposed transfers of data to third countries or international organisations

27) Legal foundation of transfer:

Only transfers to third party countries not subject to Directive 95/46/EC (Article 9) should be considered for this question. Please treat transfers to other community institutions and bodies and to member states under question 20.

Transfers may be made to competent third countries and international organisations where this is supported by legislation (for example under 515/97 during a specific time frame of a joint customs operation-see DPO-102).

For further details please see the letter from the OLAF DPO to the EDPS 28/11/2006 D/09470.

28) Category(ies) of Personal Data or Personal Data to be transferred:

All categories specified in response to questions 17-18.

16/ The processing operation presents specific risk which justifies prior checking (please describe): *(please describe)*:

7) Description of Processing:

Attention: Please describe in the answer to this question if you process personal data falling under article 27 "Prior-Checking (by the EDPS - European Data Protection Supervisor)"

See attachment.

12) Lawfulness of Processing:

Answering this question please also verify and indicate if your processing has to comply with articles 20 "Exemptions and restrictions" and 27 "Prior checking (by the EDPS)"

The processing operations are necessary for the performance of tasks carried out by OLAF pursuant to its mandate, as referred to in reply to Question 11 and thus lawful pursuant to Article 5 (a) of the Regulation no 45/2001.

Exemptions and restrictions pursuant to Article 20 (1) (a) and (b) of Regulation 45/2001 may be applicable to this processing activity.

This processing is subject to prior checking according to Article 27 (2) (a) of the Regulation 45/2001.

Article 27.2.(a) Processing of data relating to health and to suspected offences, offences, criminal convictions or security measures,

Yes.

Article 27.2.(b) Processing operations intended to evaluate personal aspects relating to the data subject,

Yes.

Article 27.2.(c) Processing operations allowing linkages not provided for pursuant to national or Community legislation between data processed for different purposes,

Yes.

Article 27.2.(d) Processing operations for the purpose of excluding individuals from a right, benefit or contract,

Not applicable.

Other (general concept in Article 27.1)

Not applicable.

17/ Comments

1) Date of submission:

10) Comments if applicable:

36) Do you publish / distribute / give access to one or more printed and/or electronic directories?

Personal Data contained in printed and/or electronic directories of users and access to such directories shall be limited to what is strictly necessary for the specific purposes of the directory.

If Yes, please explain what is applicable.

no

37) Complementary information to the different questions if applicable, including attachments to this notification which should not be public :

PLACE AND DATE:17/01/2007

DATA PROTECTION OFFICER: LAUDATI Laraine

INSTITUTION OR BODY:OLAF