

REGISTER NUMBER: 144

NOTIFICATION FOR PRIOR CHECKING

Date of submission: 17/01/2007

Case number: 2007-028

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

Intelligence databases

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.

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 amangers 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.

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

The standard templates for the two key iBase entities in relation to personal data, i.e. persons and organisations, are attached. These templates are used for data entry when creating a new I-Base database. Occasionally, an analyst may need an additional field.

No data fields which fall under article 10.

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 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 under investigation.

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)"

Some specific analytical projects attaining a critical mass of complexity or volume require an intelligence database in an iBase environment. iBase is at the heart of a group of inter-linked analytical tools that allow management of data, visualisation of data on charts and maps and statistical analysis of data as depicted in the attached scheme (See attachment).

The description of processing is otherwise the same as that set forth in the reply to Question 7 of DPO-88 (Information and intelligence data pool).

8) Automated Processing operation(s):

iBase is both a database application and a modeling and analysis tool. The data objects, such as vehicles, people and addresses, are linked to demonstrate relationships with other data objects, such as owner, associate, and account holder. Each entity or link is represented by a database record.

iBase environments assist analysts in the process of analysing. For instance, they support the data entry process, automatically highlight information already known to the system, and analyse and display complex information and relationships between entities.

See also the reply to Question 7 of DPO-88.

9) Manual Processing operation(s):

Data entry; selection of analysis tools to be used to make the analysis; preparation of the analysis report.

See also the reply to Question 7 of DPO-88.

10/ Storage media of data

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

Specifically, all iBase environments are created by OLAF analysts on the network on the OLAF SQL server with a back up put at regular times on another drive.

11/ Legal basis and lawfulness of the processing operation

11) Legal basis of Processing:

Operational intelligence and information support are essential aspects of OLAF's 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.

As of 01/12/2006, OLAF maintains 28 iBase databases. There are retention period settings of 1 and 3 years for intelligence purposes. In relation to CMS cases the retention period will be extended based on the date of the last appeal or other relevant events.

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 operations-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)"

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The description of processing is otherwise the same as that set forth in the reply to Question 7 of DPO-88 (Information and intelligence data pool).

12) Lawfulness of Processing:

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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 :

1. Ample documentation is available at OLAF and on the Internet (<http://www.i2.co.uk/products/>) which provides details on the i2 products OLAF is using for its intelligence databases. This documentation explains the capabilities and potential output of the software.

2. iBase software developers have made extensive efforts to safeguard this database from unauthorised access. iBase was created with the purpose of intelligence management. A security file created and managed by the I-Base designer gives access to the SQL-database. Further details can be found in the iBase 4 Designer Guide. In relation to security, the iBase 4 managing Access Control manual provides further detail on accessing iBase. In order to open the database, an account and password are required. There are several types of accounts. A "Designer" account has the right to make changes to the database structure (separate dongle OLAF has two licenses). "User" accounts range from super-user to guest with only read access. "Auditor" accounts give access to the At OLAF, the audit log is set on level 4. This means different types of data-manipulations are registered in a log file: open

3. The iBase designer view, attached as file Designreport-C4_I-Base_DPO, provides detail on the kind of iBase environments OLAF creates. The template used is based on the High Taxed Goods database, which was the first iBase environment created by OLAF.

PLACE AND DATE:17/01/2007

DATA PROTECTION OFFICER: LAUDATI Laraine

INSTITUTION OR BODY:OLAF