

REGISTER NUMBER: 152

NOTIFICATION FOR PRIOR CHECKING

Date of submission: 09/02/2007

Case number: 2007-072

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 address of the controller

2) Name and First Name of the Controller:WALTON-GEORGE Ian

3) Title:Head of Unit

4) Directorate, Unit or Service to which the Controller is attached:B.03

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

External investigations and operations, Directorate B

4/ Purpose or purposes of the processing

OLAF's external investigations and coordination cases in the agriculture, structural measures and customs (including cigarettes, VAT, alcohol and precursors) sectors are conducted to determine whether fraud, corruption or other illegal activity affecting the financial interests of the European Community have occurred. The results of an external investigation may be transferred to the appropriate national or Community authorities for judicial, administrative, legislative or financial follow-up.

5/ Description of the category or categories of data subjects

14) Data Subject(s) concerned:

Persons outside the EU Institutions involved in the matter under investigation and persons who are mentioned in the documents kept in the file as a result of the investigation activities (eg managers of the companies concerned, informants and witnesses).

Members of staff of Member States' and third countries' administrations, accounting and auditing bodies, staff of EU Institutions and international organisations, professional services acting as operational partners to OLAF.

16) Category(ies) of Data Subjects:

Persons outside the EU Institutions involved in the matter under investigation and persons who are mentioned in the documents kept in the file as a result of the investigation activities (eg managers of the companies concerned, informants and witnesses).

Members of staff of Member States' and third countries' administrations, accounting and auditing bodies, staff of EU Institutions and international organisations, professional services acting as operational partners to OLAF.

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

Name, company name, address, telephone number, e-mail address, date of birth, nationality, passport number, profession, employer, statements made regarding events under investigation where the data subject is mentioned, evidence or notes mentioning the data subject in relation to the events under investigation, information concerning personal relationships if relevant to the investigation (for example possibility of a conflict of interest)

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 data, professional data, case involvement data. No data fields which fall under Article 10 of Regulation 45/2001 are processed.

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'

Data subjects will be advised of their rights through the standard clauses and privacy statement which can be found in the attachment.

Informants - Annex 1

Witnesses - Annex 2

Persons concerned - Annex 3

Member State and third country authorities - Annex 4

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' :

The data subjects are informed of their rights through standard clauses or the privacy statement as specified in the response 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)"

Conducting administrative investigations and managing coordination cases outside the Community institutions, bodies, offices and agencies for the purpose of detecting fraud or other irregular conduct of natural or legal persons in the agriculture, structural measures and customs (including cigarettes, VAT, alcohol and precursors) sectors to the detriment of the Communities' financial interests.

Further details on external investigations and coordination cases can be found in Sections 3.4.1.2 and 3.4.1.4 of the OLAF Manual.

This processing operation is subject to prior checking under Article 27.

8) Automated Processing operation(s):

The Case Management System (CMS) contains all case-related documentation created during the investigation process. For details, see section 2.2 of Memorandum in support of notification for prior checking with the EDPS pursuant to Article 27 of Regulation 45/2001 concerning OLAF's processing of personal data in the context of internal investigations (DPO-7; C2005-0418).

9) Manual Processing operation(s):

All manual processing of personal data is done via the CMS. For details, see section 2.2 of Memorandum in support of notification for prior checking with the EDPS pursuant to Article 27 of Regulation 45/2001 concerning OLAF's processing of personal data in the context of internal investigations (DPO-7; C2005-0418).

10/ Storage media of data

CMS electronic data are stored in an Oracle database protected by a specific OLAF firewall. Paper data is stored in the OLAF "Grefte" and in the working files of investigators.

See also Memorandum in support of notification for prior checking with the EDPS, pursuant to Article 27 of Reg 45/2001 concerning OLAF's processing of personal data in the context of internal investigations, point 2.3.

11/ Legal basis and lawfulness of the processing operation

11) Legal basis of Processing:

Regulation 1073/99, Regulation 2185/96, Regulation 2988/95 and sectoral legislation as specified in Section 3.4.1 of the OLAF Manual of 25 February 2005, including Regulation 515/97 and Regulation 595/91.

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)"

Processing is necessary for the performance of tasks carried out in the public interest on the basis of the Treaties and the legal instruments specified in response to Question 11. It is thus lawful under Article 5(a) of Regulation 45/2001.

The exemptions and restrictions laid down in Article 20 (1) (a) and (b) may be applicable.

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

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

20) Recipient(s) of the Processing:

- concerned EU institutions, bodies, offices or agencies, in order to allow them to take appropriate measures to protect the financial interests of the EU;
- competent Member State authorities, in order to allow them to take appropriate measures to protect the financial interests of the EU;
- competent third country authorities and international organisations, in order to maximise the protection of the financial interests of the EU and to ensure an appropriate follow-up.

For further details, see follow-up notifications (DPO-2-5 and 16) and OLAF's memorandum on transfers to third countries and international organisations (D/04668 of 13 June 2005).

See also OLAF Manual, section 3.5.

21) Category(ies) of recipients:

- competent Member State authorities
- competent authorities in third countries and international organisations
- the concerned Community institutions, bodies, offices or agencies.

13/ retention policy of (categories of) personal data

OLAF may keep both electronic and paper files related to investigations for up to 20 years after the date on which the investigation was closed.

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

In order to allow for the comparison of precedents, and the compilation of statistics, final case reports may be kept in anonymised form for 50 years.

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.

See OLAF's memorandum on transfers to third countries and international organisations (D/04668 of 13 June 2005, C-2005-0154).

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

See OLAF's memorandum on transfers to third countries and international organisations (D/04668 of 13 June 2005, C-2005-0154).

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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Further details on external investigations and coordination cases can be found in Sections 3.4.1.2 and 3.4.1.4 of the OLAF Manual.

This processing operation is subject to prior checking under Article 27.

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)"

Processing is necessary for the performance of tasks carried out in the public interest on the basis of the Treaties and the legal instruments specified in response to Question 11. It is thus lawful under Article 5(a) of Regulation 45/2001.

The exemptions and restrictions laid down in Article 20 (1) (a) and (b) may be applicable.

This processing operation is subject to prior checking under Article 27 (2) (a) of 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,

No.

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

Yes.

Other (general concept in Article 27.1)

No.

17/ Comments

1) Date of submission:

10) Comments if applicable:

None

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:01/02/2007

DATA PROTECTION OFFICER: LAUDATI Laraine

INSTITUTION OR BODY:OLAF