

REGISTER NUMBER: 156

NOTIFICATION FOR PRIOR CHECKING

Date of submission: 15/02/2007

Case number: 2007-085

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: KHOUW Johan

3) Title: Head of Unit

4) Directorate, Unit or Service to which the Controller is attached: C.02

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

Module 1681/94

4/ Purpose or purposes of the processing

To aid in ascertaining the nature of irregular practices and the financial effects of irregularities, in recovering sums wrongly paid and in preventing irregularities. This exchange of information is also intended for the reinforcement of cooperation between the Member States and the Commission and the enhancement of risk analysis for fraud prevention and detection in the field of Structural Funds.

5/ Description of the category or categories of data subjects

14) Data Subject(s) concerned:

Beneficiaries of community financial contribution in the policy areas indicated under question 11, who have committed or who are suspected of having committed irregularities.

16) Category(ies) of Data Subjects:

Beneficiaries of community financial contribution in the policy areas indicated under point 11, who have committed or who are suspected of having committed irregularities.

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; address; date of birth; provisions infringed and nature and description of sanctions imposed.

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

Personal identification data; data related to the administrative, judicial and financial procedures concerning the irregularities affecting EU contributions in the sectors indicated under question 11.

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'

A privacy statement, which is published on the internet, provides all information to comply with requirements of Article 11 (see attachment).

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 attached privacy statement.

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)"

This module processes information received from the Member States under Regulation (CE) 1681/94, as amended by Reg. (CE) 2035/2005, which requires them to report irregularities (or new information related to previously known irregularities) related to structural funds involving a Community contribution greater than 10,000 within 2 months of the end of the quarter in which detected. Communications are received through the dedicated electronic module of AFIS and then stored in the ECR or inserted manually in the ECR by a dedicated team, if received in paper form. Information is analysed through IT tools and used by OLAF for intelligence purposes (see notifications DPO-88: Information and intelligence data pool, and DPO-89: Intelligence databases). Feedback is given to Member States in relation to modus operandi and recovery

8) Automated Processing operation(s):

When using the electronic notification system, a communication ID is automatically generated. The system also records the date of communications and the notifying body. The registry does not allow for automated processing of the information contained therein.

9) Manual Processing operation(s):

Data that are received on paper forms are keyed in the appropriate system by a dedicated team. Members of the team can also correct information and data received electronically in case of material errors.

Feedback is given by OLAF to the Member State that provided the information in relation to general trends, modus operandi and recovery procedures.

10/ Storage media of data

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Paper; hard disk.

11/ Legal basis and lawfulness of the processing operation

11) Legal basis of Processing:

Regulation (EC) 1681/94 of 11 July 1994, amended by Regulation (EC) 2035/2005 of 12 December 2005.

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 operation is necessary to aid in ascertaining irregularities and to reinforce cooperation among Member State authorities and the Commission, in conformance with the requirements of the legal basis specified in response to Question 11.

Thus, it is lawful under Article 5(a), (b) and (c) of Regulation 45/2001. (When receiving community and national funds, the data subject signs a contract which also foresees the possibility of recovery of funds if unduly paid.)

The exceptions and restrictions of Article 20(1)(a) and (b) of Regulation 45/2001 may be applicable in specific cases.

This processing operation is subject to prior checking in accordance with Article 27(2)(a) and (b) of Regulation 45/2001.

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

20) Recipient(s) of the Processing:

21) Category(ies) of recipients:

Community institution.

13/ retention policy of (categories of) personal data

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At least five years and up to 3 years after the closure of administrative, financial and judicial procedures related to the reported irregularity and the closure of the programme/operation/measure concerned, in conformance with financial provisions relating to the specific areas of the budget concerned.

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

1 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

Anonymised data can be maintained for a maximum of 30 years to allow for statistical analysis of irregularities, especially time series analysis.

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.

Not applicable.

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

Not applicable.

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

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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:

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:09/02/2007

DATA PROTECTION OFFICER: LAUDATI Laraine

INSTITUTION OR BODY:OLAF