

**REGISTER NUMBER: 157**

**NOTIFICATION FOR PRIOR CHECKING**

Date of submission: 15/02/2007

Case number: 2007-086

Institution: OLAF

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

*(1) OJ L 8, 12.01.2001*

**INFORMATION TO BE GIVEN<sup>(2)</sup>**

*(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 1831/94

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 the Cohesion Fund.

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)"

Under sectoral legislation, Member States are requested to notify periodically irregularities which they have detected involving Community resources, and to update relevant information concerning their administrative/judicial and financial follow up. Communications are received through dedicated electronic modules of AFIS (DPO-77) and then stored in the Electronic Communications Registry (ECR) or inserted manually in the ECR or other Data Bases by a dedicated team, if received in paper form. Information is analysed through IT tools and used by OLAF for intelligence purposes. Feedback is given by OLAF to the Member State that provided the information in relation to the financial follow-up of irregularities. Member States are informed about general trends, modus operandi and recovery procedures.

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) 1831/94 of 26 July 1994, amended by Regulation (EC) 2168/2005 of 23 December 2005.  
Art. 3§1, lett. (k)

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)"

Lawfulness of processing relies on:

- (a) necessity for the performance of a task carried out in the public interest on the basis of legal instruments adopted on the basis of the Treaties;
- (b) necessity for compliance with a legal obligation to which the controller is subject,
- (c) necessity for the performance of a contract to which the data subject is party. In fact, when receiving community and national funds, the data subject signs a contract which also foresees the possibility of recovery of funds if unduly paid.

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

20) Recipient(s) of the Processing:

Access is granted, on motivated request, to competent DGs of the Commission (REGIO, EMPL, FISH and AGRI) in order to conciliate data at the time of the closure of projects.

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)  
(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

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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(a) necessity for the performance of a task carried out in the public interest on the basis of legal instruments adopted on the basis of the Treaties;

(b) necessity for compliance with a legal obligation to which the controller is subject,

(c) necessity for the performance of a contract to which the data subject is party. In fact, when receiving community and national funds, the data subject signs a contract which also foresees the possibility of recovery of funds if unduly paid.

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