

REGISTER NUMBER: 192

NOTIFICATION FOR PRIOR CHECKING

Date of submission: 23/03/2007

Case number: 2007-205

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: BRUENER Franz-Hermann

3) Title: Director General

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

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

Non-cases and prima-facie non-cases

4/ Purpose or purposes of the processing

- To decide on the treatment to be given to information submitted to OLAF;
- To decide whether an investigation, or a coordination, monitoring or criminal assistance case, or other action should be undertaken in relation to information submitted to OLAF;
- To retain information submitted to OLAF but not leading to the opening of an investigation or other case for a reasonable period, in the event that additional information is received which necessitates re-evaluation of that information;
- To retain information received by OLAF for a reasonable period to ensure accountability and verification of the work of the Office.

5/ Description of the category or categories of data subjects

14) Data Subject(s) concerned:

Whistleblowers
 Informants
 Persons concerned
 Staff of the EU Institutions, bodies and agencies
 Staff of international organisations
 Staff of Member State and third country administrations

16) Category(ies) of Data Subjects:

Whistleblowers
 Informants
 Persons concerned
 Staff of the EU Institutions, bodies and agencies
 Staff of international organisations
 Staff of Member State and third country administration

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, fax number, e-mail address, date of birth, nationality, profession, passport number, employer, statements by or concerning the data subject relating to the allegation communicated to OLAF.

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, data relating to the allegation communicated to OLAF.

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 are informed of their rights through the privacy statement on the OLAF Europa website as specified in the 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' :

Data subjects are informed of their rights through the privacy statement on the OLAF Europa website as specified in 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)"

All incoming information alleging illegal or irregular conduct or acts is registered in the CMS and subject to initial assessment.

When the information received clearly and unequivocally does not fall within the competence of OLAF, the matter is classified as a non-case prima-facie without the need for further assessment.

When, following an assessment of initial information received (which does fall within the competence of OLAF), OLAF decides that there is no need to open an investigation, or a coordination, assistance or monitoring case, because EU interests appear not to be at risk or for other reasons (eg the matter is a disciplinary matter or the suspicions are not sufficiently serious), the matter is classified as a non-case.

A CMS record will be opened for each non-case and each prima-facie non-case.

8) Automated Processing operation(s):

During the assessment phases, the Case Management System (CMS) contains all documentation and data which is potentially case-related.

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 "Greffe" 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, Commission Decision 1999/352/EC and all other legislation designed to fight against fraud (see OLAF Manual section 3.4.1)

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 to assess whether it is appropriate for OLAF to open an investigation or coordination, monitoring or criminal assistance case, or to take any other action in relation to alleged prejudice to the Communities' financial interests in accordance with Regulation 1073/99. Thus it is lawful under Article 5(b).

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

The processing of this 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:

When a decision is taken that information received by OLAF will be classified as a non-case prima-facie or a non-case, if appropriate, information about possible offences not related to the protection of EU interests or the suspicions are not sufficiently serious for opening a case may be transmitted to other services of the Commission or other EU Institutions or the authorities in the Member States or third countries or an international organisation.

21) Category(ies) of recipients:

Staff of Commission services or Member State administrations.

Staff of third country administrations or international organisations.

13/ retention policy of (categories of) personal data

OLAF may keep electronic files relating to non-cases and non-cases prima-facie for a period of 5 years.

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

For analytical or statistical purposes, non-cases and non-cases prima-facie may be kept in anonymised form for a period of 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.

Transfers may be made to competent third country and international organisations as explained in OLAF's memorandum on transfers to third countries and international organisations (D/04688 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/04688 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)"

All incoming information alleging illegal or irregular conduct or acts is registered in the CMS and subject to initial assessment.

When the information received clearly and unequivocally does not fall within the competence of OLAF, the matter is classified as a non-case prima-facie without the need for further assessment.

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A CMS record will be opened for each non-case and each prima-facie non-case.

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

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 to assess whether it is appropriate for OLAF to open an investigation or coordination, monitoring or criminal assistance case, or to take any other action in relation to alleged prejudice to the Communities' financial interests in accordance with Regulation 1073/99. Thus it is lawful under Article 5(b).

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

The processing of this 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:

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:23/03/2007

DATA PROTECTION OFFICER: LAUDATI Laraine

INSTITUTION OR BODY:OLAF