

REGISTER NUMBER: 276

NOTIFICATION FOR PRIOR CHECKING

Date of submission: 23/07/2007

Case number: 2007-481

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: HETZER Wolfgang

3) Title: Head of Unit

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

Fraud Notification System (FNS)

4/ Purpose or purposes of the processing

The Fraud Notification System is made available to the public as a web-based Information System that may be used to submit information to OLAF which may be useful in the fight against fraud affecting the financial interests of the EU.

5/ Description of the category or categories of data subjects

14) Data Subject(s) concerned:

1. Members of the public who choose to use the system to report allegation of fraud etc.;
2. Any person named by the user of the system sending the message;
3. The OLAF staff members who are responsible to manage the system.

16) Category(ies) of Data Subjects:

1. Informants using the system
2. Persons named by the informants
3. OLAF staff responsible to read the messages

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

1. Informants: Date & time of message, Language they have chosen, content of message which may include their own personal data.
2. Persons named by informants: whatever personal data is left by the informant.
3. OLAF staff responsible to read the messages: name, OLAF unit, mother tongue.

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

See reply to Question 17.

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'

See attached privacy statement.

Regarding the users of the system and the persons named, a link to the privacy statement will be placed on the home page of the FNS, within the OLAF Europa site. Thus, all users of the system will have access to the privacy statement.

The persons named by the users of the system will be informed as follows:

If the information is eventually used in an OLAF investigation, it will become part of the case file. Thus, the named person will be informed in the context of the case, as established in the prior checks of the various types of OLAF cases. The provision of information may be deferred if one of the exceptions to Article 20 applies.

If the information is deleted because it is deemed not relevant, and has not become part of a case file, then it is not necessary to provide the information to named person on an individual basis.

Regarding the OLAF staff responsible to read the messages, they are deemed to already have the information specified in Article 11. In any event, they have access to the privacy statement on the OLAF Europa site.

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 and 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)"

The FNS is a web-based information tool that allows informants to provide information anonymously via the Internet about patterns of behaviour giving rise to suspicion of fraud or corruption . This system allows the OLAF investigator to establish a secure communication channel to the informant.

Members of the public may fill in a questionnaire, including a free text field. It is possible to attach a file. They can choose to register for ongoing communications, or just submit the questionnaire. If they choose to register, a username is generated and supplied to the data subject, who is asked to choose a password. Neither username nor password is stored in the system; only the data subject knows them, but they are needed to access the system. The ongoing communications take the form of messages from the OLAF investigators, usually containing more detailed follow up questions.

8) Automated Processing operation(s):

Incoming Messages are automatically stored on the stand-alone server.

Irrelevant Messages are automatically deleted via an automatic classification mechanism. This mechanism is based on statistics accumulated from previously classified messages.

9) Manual Processing operation(s):

1. Review Officer (one of the Investigators) reads the incoming message and forwards it to responsible Head of Unit; he/she deletes irrelevant messages which have not been recognized as irrelevant by the automatic classification system.
2. Head of Unit forwards relevant messages to responsible investigator; deletes irrelevant messages.
3. Investigator activates or deactivates a communication channel to the correspondent, corresponding via the anonymous mailbox with correspondent.
4. System Administrator manages the investigator's accounts; recovers the investigator's password; reviews and deletes messages marked for deletion by review officers; accesses performance statistics; verifies the backup and audit logs.

10/ Storage media of data

The questionnaires are stored in encrypted form, in a relational database on a mirrored pair of hard disks in a server.

11/ Legal basis and lawfulness of the processing operation

11) Legal basis of Processing:

Regulation 1073/99; Regulation 2185/96; Regulation 2988/95.

For further details of the legal basis for each particular type of investigation, see the investigations and operations sub-notifications.

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 part of the initial information gathering which may lead to the opening of an investigation, and thus necessary for the performance of the tasks carried out in the public interest on the basis of the Treaties and the legal instruments specified in response to Question 11. Thus, it is lawful under Article 5(a) of Regulation 45/2001.

The exemptions specified in Article 20(1)(a) and (b) may be applicable.

This processing operation is subject to prior checking in accordance with 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:

The OLAF investigation unit responsible for confirming that the matter is a non-case, or for deciding whether to initiate assessment;

The OLAF operational intelligence unit, which may forward the message to a Member State authority if it is deemed relevant for their work in the fight against fraud and corruption affecting the financial interests of the EU;

If the message leads to an investigation, it may eventually be sent to:

-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 ensure an appropriate follow-up and to maximise the protection of the financial interests of the EU.

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).

21) Category(ies) of recipients:

see reply to question 20

13/ retention policy of (categories of) personal data

20 years, if the data becomes part of an investigation file or is classified as a non-case.

The data is immediately deleted, if it is deemed not relevant to OLAF.

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

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.

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:

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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:23/07/2007

DATA PROTECTION OFFICER: LAUDATI Laraine

INSTITUTION OR BODY:OLAF