

REGISTER NUMBER: 627

NOTIFICATION FOR PRIOR CHECKING

Date of submission: 11/10/2010

Case number: 2010-798

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: SMEETS Alphons Lodewijk

3) Title: Official

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

Mutual Assistance Broker (MAB) exchange notification

4/ Purpose or purposes of the processing

The purpose of the processing is to enable the competent authorities in the Member States to communicate and exchange anti-fraud information among themselves and with the Commission in the framework of the Mutual Assistance Regulation (Council Regulation (EC) 515/97), with the aim of preventing, investigating and prosecuting violations of customs or agricultural legislation.

5/ Description of the category or categories of data subjects

14) Data Subject(s) concerned:

- 1) Natural persons (or legal persons whose name may lead to the identity of a natural person) mentioned in the mutual assistance exchanges communicated among the Member States' competent authorities and with OLAF, and in particular, such persons who are involved in operations detected or planned which constitute, or appear to the competent authority to constitute, breaches of customs or agricultural legislation.
- 2) The officials of the Member State and third country authorities working on the matter.

16) Category(ies) of Data Subjects:

- 1) Natural persons (or legal persons whose name may lead to the identity of a natural person) mentioned in the mutual assistance exchanges communicated among the Member States' competent authorities and with OLAF, and in particular, such persons who are involved in operations detected or planned which constitute, or appear to the competent authority to constitute, breaches of customs or agricultural legislation.
- 2) The officials of the Member State third country authorities working on the matter.

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

Regarding the data subjects mentioned in the MA exchange messages:

- 1) Surname, First name, Maiden Name, Alias, Gender
- 2) Physical characteristics
- 3) Place and date of birth
- 3) Nationality
- 4) Profession
- 5) A warning indicating any history of being armed, violent, drug addict or suicidal
- 6) ID document (type, number, date and place of issue)
- 7) Address (PO box, Street, House No, Box, Postal code, City, Country)
- 8) Involvement description
- 9) Suggested action

Regarding the Member States officials:

- 1) Surname, Name, Service, telephone, mobile phone, fax, Email address

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

Regarding persons concerned: Identification data, case involvement data. Physical characteristics may fall under Article 10, to the extent that they could lead to identification of racial or ethnic origin or religion.

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.

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)"

Mutual Assistance Broker (MAB) Operations Manager is a tool to organise structured and non structured electronic mail exchanges. The data are stored in a central repository on the OLAF server, locally on the recipient's system, making data available for exporting, internal retransmission and analysis. The business interfaces aiming to capture the data in Yachtinfo, Marinfo, Cinginfo, MAB mail (former AFIS) are integrated into a single business interface called "Mutual Assistance Broker" (MAB).

8) Automated Processing operation(s):

9) Manual Processing operation(s):

The MAB application offers users the possibility to create and publish cases, as well as to create and send mail messages, in order to share information about fraudulent situations and occurrences. The entire series of actions regarding a case (such as, for instance, its creation, publishing, viewing, editing) define the MAB Case Management. The part of the system allowing users to create and send messages (as compared to cases) is known as the MAB Mail Management.

A case represents a communication with a structured format, the result of the editing and publishing options in MAB. This published entity can be of several types. The case types are: CIS EU, CIS MS, CigInfo, MarInfo, YachInfo.

When you create a MAB Case, several case types can be covered in the same time, according to the scope selection. For example, a CigInfo case combined with a MarInfo one: the two cases share the bulk of information. But, once you publish these cases, they start their own independent lives.

No further relationship will ever content of the two published cases.

10/ Storage media of data

Data are kept in a central repository on the OLAF server and linked to the users through a specific and dedicated network (CCN/CSI) controlled and managed by the European Commission (TAXUD).

11/ Legal basis and lawfulness of the processing operation

11) Legal basis of Processing:

Council Regulation (EC) No 515/97 of 13 March 1997 on mutual assistance between the administrative authorities of the Member States and cooperation between the latter and the Commission to ensure the correct application of the law on customs and agricultural matters;

Mutual administrative assistance agreements/Protocol in customs matters concluded between EU and some third countries.

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 operations are related to functioning of the mutual administrative assistance in customs and agriculture matters in accordance with the provision of Council Regulation (EC) 515/97 and thus lawful pursuant to Art 5(a) of Council Regulation (EC) 45/2001.

Exemptions and restrictions specified in Art 20 of Council Regulation (EC) 45/2001 may be applicable in some cases.

The processing is subject to prior checking according to Art 27 of Council Regulation (EC) 45/2001.

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

20) Recipient(s) of the Processing:

Officials of the competent authorities of the Member States and the European Commission responsible for the application of Council Regulation (EC) No 515/97 of 13 March 1997 as modified by Regulation (EC No 766/2008) and officials of competent third country authorities.

21) Category(ies) of recipients:

Officials of the competent authorities of the Member States and the European Commission responsible for the application of Council Regulation (EC) No 515/97 of 13 March 1997 and officials of competent third country authorities.

13/ retention policy of (categories of) personal data

The data are retained for a maximum period of 10 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

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

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.

Members of MarInfo and YahtInfo groups can exchange the data via Marinfo and YahtInfo Moduls. Please find enclosed to the question 37 the list of members of Marinfo and YahtInfo group. The third countries authorities which can exchange data in MarInfo and Yahtinfo are included in the list.

Information are also exchanged with specific Third Countries under Mutual assistance Agreements. Third Countries for which EC Provisions on Mutual Administrative Assistance in Customs Matters have entered into Force are on OLAF internet "http://ec.europa.eu/dgs/olaf/assist_3rd/index_en.html" These agreements were provided to the EDPS in the annex to the Memorandum concerning the application of Article 9 of Regulation 45/2001 to OLAF's transfer of personal data to competent authorities of third country and international organisations on 13.6.2005 (D/04668) and 18.10.2005 (D/08412).

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

The categories are the same as those listed in response to questions 14 and 16 above.

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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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)"

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Exemptions and restrictions specified in Art 20 of Council Regulation (EC) 45/2001 may be applicable in some cases.

The processing is subject to prior checking according to Art 27 of Council Regulation (EC) 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,

no

Other (general concept in Article 27.1)

no

17/ Comments

1) Date of submission:

10) Comments if applicable:

This notification is an update of DPO 90 ("Mutual Assistance Exchanges"), which will now be divided into several notifications. (DPO-90 was already subject to a prior check, for which an opinion has been issued by the EDPS on 19 October 2007 (Case 07-202).)

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 :

- AFIS Security Policy Document
- List of MarInfo/YahtInfo Members

PLACE AND DATE:11/10/2010

DATA PROTECTION OFFICER: LAUDATI Laraine

INSTITUTION OR BODY:OLAF