

REGISTER NUMBER: 802

NOTIFICATION FOR PRIOR CHECKING

Date of submission: **01/12/2011**

Case number: **2011-1127**

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 adress of the controller

2) Name and First Name of the Controller: KESSLER Giovanni

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

Internal investigations

4/ Purpose or purposes of the processing

Internal administrative investigations are conducted to determine whether fraud, corruption or any other illegal activity affecting the financial interests of the European Community have occurred, or whether serious matters relating to the discharge of professional duties such as to constitute a dereliction of the obligations of officials and other servants of the Communities liable to result in disciplinary or criminal proceedings have occurred, and if so, to refer the results of OLAF's investigation to the appropriate national or EU authorities for implementation.

5/ Description of the category or categories of data subjects

14) Data Subject(s) concerned:

1. Natural persons who are the subject of the OLAF internal investigation.
2. Natural persons who have provided information to OLAF including informants, whistleblowers, witnesses and persons who have provided statements.
3. Staff of OLAF operational partners working on OLAF matters whose name appears in documents stored by OLAF.
4. Other persons whose name appears in the case file but have no relevance to the case.

16) Category(ies) of Data Subjects:

1. Natural persons who are the subject of the OLAF internal investigation.
2. Natural persons who have provided information to OLAF including informants, whistleblowers, witnesses and persons who have provided statements.
3. Staff of OLAF operational partners working on OLAF matters whose name appears in documents stored by OLAF.
4. Other persons whose name appears in the case file but have no relevance to the case.

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

Identification data: surname, forename, nickname, birthday, birthplace, street, postcode, city, country, telephone number, fax number, e-mail address.

Professional data: profession, organisation, function.

Case involvement data: case involvement, activities and information related to matters which are the subject of implementation, comments of the person.

Data fields which fall under Article 10 are only processed where strictly necessary within a given case.

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, case involvement data.

Data fields which fall under Article 10 are only processed where strictly necessary within a given case.

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 short version of the privacy statement is included in the OLAF workforms which are sent to data subjects during the normal course of activities. The full privacy statement is available on the OLAF Europa website. The short version makes reference to the OLAF data protection page on the OLAF Europa website, which includes the full 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 statements.

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)"

Conducting administrative investigations within the Community institutions, bodies, offices and agencies for the purpose of detecting fraud, corruption and any other illegal activity affecting the financial interests of the European Communities, or serious matters relating to the discharge of professional duties; maintaining investigation files.

For further details, see the Instructions to Staff on Investigative Procedures (attached).

8) Automated Processing operation(s):

A central database, the Case Management System (CMS), is used to manage all of OLAF's internal investigations. All documents related to a case, including reports, notes, correspondence, decisions and all other events related to a case are recorded in the CMS. This includes those related to the implementation of OLAF's recommendations. The OLAF staff member (investigative unit) in charge is given access rights to the CMS file and is responsible for updating the system in a timely manner and monitoring the completeness of details and documentation for his case. For further details, see the CMS notification (DPO-73).

9) Manual Processing operation(s):

The OLAF Greffe maintains the official cases in paper form in a uniform manner, in compliance with Commission Decision 2002/47/EC, ECSC, Euratom, OJ L 21. OLAF case handlers may keep their own working files for the cases assigned to them, containing only copies of documents. When the implementation has been completed, the staff in charge hands over to the Greffe all case-related documents. The Greffe staff will compare the two sets of files (original and copies), ensuring that the Greffe file is complete and destroying duplicate documents.

10/ Storage media of data

CMS electronic data is stored in an Oracle database within OLAF's independent network. Paper data is stored in the OLAF Greffe and in working files of the investigative unit. For further details see notifications for the CMS (DPO-73) and IT infrastructure (DPO-97).

11/ Legal basis and lawfulness of the processing operation

11) Legal basis of Processing:

Article 4 of Regulation 1073/1999, Article 2 of Commission Decision 1999/352, and relevant internal decisions of the EU institutions, bodies, and agencies.

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 necessary to satisfy the obligations established by Regulation 1073/99. Thus, the processing is necessary and lawful pursuant to Article 5(a) of Regulation (EC) No 45/2001.

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

This processing is subject to prior checking according to Article 27(a) and (d) of Regulation 45/2001.

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

20) Recipient(s) of the Processing:

Transfers of data may be made to:

-concerned EU institutions, bodies, offices or agencies, in order to allow them to take appropriate measures to protect the financial or other interests of the EU;

-competent national 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 implementation and to maximise the protection of the financial interests of the EU.

21) Category(ies) of recipients:

EU institutions, bodies, offices or agencies;

competent Member State authorities;

competent third country authorities and international organisations.

13/ retention policy of (categories of) personal data

OLAF may keep both electronic and paper files relating to the case for up to 20 years after the closure of the investigation where recommendations have been made, and up to 10 years where no recommendations have been made.

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

The time limit for blocking and erasure of the different categories of data is 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

Statistical data may be kept for up to 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 authorities and international organisations, as explained in detail in OLAFs memorandum to you, D/04668 of 13.6.2005

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

All categories of data specified in reply to question 17.

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)"

Conducting administrative investigations within the Community institutions, bodies, offices and agencies for the purpose of detecting fraud, corruption and any other illegal activity affecting the financial interests of the European Communities, or serious matters relating to the discharge of professional duties; maintaining investigation files.

For further details, see the Instructions to Staff on Investigative Procedures (attached).

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 necessary to satisfy the obligations established by Regulation 1073/99. Thus, the processing is necessary and lawful pursuant to Article 5(a) of Regulation (EC) No 45/2001.

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

This processing is subject to prior checking according to Article 27(a) and (d) 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,

no

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:01/12/2011

DATA PROTECTION OFFICER: LAUDATI Laraine

INSTITUTION OR BODY:OLAF

To be filled out in the EDPS' office