

**REGISTER NUMBER: 804**

**NOTIFICATION FOR PRIOR CHECKING**

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

Case number: **2011-1129**

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 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

Dismissed cases and incoming information of no investigative interest

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 case or other action should be undertaken in relation to information submitted to OLAF;
- To retain for a reasonable period information submitted to OLAF but not leading to the opening of an investigation or coordination case, in the event that additional information is received which necessitates reevaluation 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:

1. Natural persons who were the subject of the OLAF investigation and/or the subject of the implementing actions by OLAF's operational partner.
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.
3. 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 were the subject of the OLAF investigation and/or the subject of the implementing actions by OLAF's operational partner.
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.
3. 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, data relating to the allegation communicated to OLAF.  
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'

Please see the attached privacy statement. This privacy statement is available on the OLAF Europa website.

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' :

Please see the 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)"

All incoming information of possible investigative interest is registered in the OLAF electronic document management system (THOR).

When the information received is not of investigative interest to OLAF no further action is taken and no Case Management System (CMS) record is opened. Otherwise, CMS record is opened.

The selection process is described in Chapter 1 of the OLAF Instructions to Staff on Investigative Procedures .

When, following a selection procedure, OLAF decides that there is no need to open an investigation or a coordination case (eg the matter can be dealt with by another competent authority or the suspicions are not sufficient ), the matter is dismissed.

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

8) Automated Processing operation(s):

Storage and processing of data in THOR and the CMS. The electronic processing of incoming personal data will also involve the use of iBase (DPO-89)and the IT infrastructure (DPO-97). Those notifications may be updated in due course where appropriate.

9) Manual Processing operation(s):

The OLAF Greffe maintains the OF 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 selection procedure is 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 are stored in the private OLAF network, described in the IT infrastructure notification. (DPO-97). Paper data is stored in the OLAF Registry and in the working files of investigators.

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.

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 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 a dismissed case, if appropriate, information may be transmitted to other services of the Commission, EU Institutions, authorities in the Member States, third countries or international organisations for whom such information may be relevant for their anti-fraud activities.

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 dismissed cases 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

The time limits for blocking and erasure of the different categories of data in 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

Anonymised record 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 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)"

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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)"

Processing is necessary to assess whether it is appropriate for OLAF to open an investigation or coordination 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,

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