

REGISTER NUMBER: 848

NOTIFICATION FOR PRIOR CHECKING

Date of submission: 23/04/2013

Case number: 2012-0280

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: SONNBERGER Harald

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

Investigative Data Consultation Platform (IDCP)

4/ Purpose or purposes of the processing

To enable OLAF and its IDCP partners to consult, cross match and search by technical means a subset of data extracted from the partners' case files with a view of detecting and identifying fraud or irregularities in the expenditure sectors. Typically, OLAF would use the system to identify cases where the partners are investigating the same data entities or related projects or cases with undeclared double or multiple funding. OLAF may also use the database for analysis of cases, as described in the notification for Intelligence Databases, Case C2007-28, for which an opinion was issued by the EDPS on November 2007.

5/ Description of the category or categories of data subjects

14) Data Subject(s) concerned:

Natural persons who are or were the subject of the OLAF external investigation;
Natural persons who have provided information to OLAF or the other IDCP partners as witnesses;
Natural persons whose names appear in the information provided by the other IDCP partners.

16) Category(ies) of Data Subjects:

Natural persons who are or were the subject of the OLAF external investigation;
Natural persons who have provided information to OLAF or the other IDCP partners as witnesses;
Natural persons whose names appear in the information provided the other IDCP partners.

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
Investigation entity: name of the case, number of the case, case type (e.g. investigation, coordination), brief description of the case (e.g. "alleged fraud within network of companies in relation to EU funds in country X"), principal allegation (e.g. misappropriation of funds, fraud and embezzlement), method of fraud (e.g. non-eligible claims and expenditures, failure to comply with contract conditions, conflict of interest, irregularity in tendering procedure), geographic zone, date of opening, date of closing, stage of case.

Person entity: full name, icon, surname, first name, alias, DOB, age, incomplete DOB, place of birth, country of birth.

Organisation/company entity: icon, organisation name, name, tradestyle, type, nationality, activity.

Address entity: street name, house number, floor, post/zip code, city, region, country, location name.

Communication entity: icon, device number, region, country code, city.

In addition, all entities include the following data fields for database maintenance purposes: source hyperlink, creation date, creation user, last update date, last update user, record ID.

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, location data, case related data (case identification data, case description data).

Data which fall under Article 10 are not included in this processing operation.

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 privacy statement is provided to the data subject in the context of an investigation, as explained in response to question 15 of the External Investigations Notification, DPO 177 (attached).

OLAF will make available to data subjects, on request, a copy of the relevant ACA and its annex.

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)"

See attachment.

8) Automated Processing operation(s):

The Case Management System (CMS) contains all case-related documentation created during the investigation process. On a regular basis, the Investigative Data Consultation Platform (IDCP) extracts specific data sets from the CMS, data recorded for external investigations, and receives identical data sets from OLAF's operational partner. This is to enable OLAF and its operational partners, in particular international organisations, to consult, cross match and search a combined data subset to detect and identify frauds or irregularities in the expenditure sectors.

9) Manual Processing operation(s):

The initial historical extract of data necessary to create the iBase database will be done manually.

Authorised staff in OLAF and the IDCP partners perform electronic searches for data on the Investigative Data Consultation Platform (IDCP).

10/ Storage media of data

Electronic data extracted from CMS and received from IDCP partners is stored in an iBase within CBIS. For further details see notifications for the iBase, DPO 89, and IT infrastructure, DPO 97.

11/ Legal basis and lawfulness of the processing operation

11) Legal basis of Processing:

The specific legal bases for external investigations were specified in the notification for external investigations (Case C2007-47,48,49,50,72).

Article 3 of Regulation 1073/1999 and Article 2 of Commission Decision 1999/352 and horizontal legislation (in particular Council Regulation) as well as sector specific legislation or other legal provisions where applicable (e.g. Regulations 1080/00, 2666/00 and 2988/95; LOME Conventions and Contenu agreements).

Personal data transfers and the processing of such data are made between OLAF and its IDCP partners in accordance with the data protection contractual clauses annexed to the relevant Administrative Cooperation Arrangement (ACA) with the partner in question, pursuant to Article 9 (7) of Regulation 45/2001. Technical modalities related to the use of the database will be agreed between the partners and attached to the ACA.

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 IDCP is part of a task carried out in the public interest, i.e. the conduct of external investigations in order to combat fraud, corruption, and other illegal activities affecting the financial interests of the EU. Thus, it is lawful under Article 5 (a) of Regulation 45/2001.

Exemptions and restrictions pursuant to Article 20 (1) (a) and (b) of Regulation 45/2001 may be applicable to this processing activity. The processing is subject to prior checking according to 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:

Access to the platform is reserved to a small number of OLAF's designated staff in charge of case selection and operational analysts, and designated staff of the relevant IDCP partners. These recipients will have direct access to the platform and to the relevant personal data.

Data may be subsequently be transferred to designated persons in the EU institutions, the relevant authorities in Member States and/or third countries and/or international organisations in the context of OLAF's investigative activities.

OLAF data may be transferred onwards by the IDCP partners to EU and non-EU government authorities only with OLAF's express agreement in accordance with the data protection contractual clauses annexed to the relevant ACA.

21) Category(ies) of recipients:

Designated staff of OLAF and the IDCP partners; designated staff in concerned EU institutions, bodies, offices and agencies, Member States, third countries and international organisations.

13/ retention policy of (categories of) personal data

Personal data in the IDCP will be stored for a maximum of 10 years. After the first 3 years, data will be reviewed annually using automated and manual checks in order to ensure that data are held in accordance with the 10 year retention period.

The maximum retention period for data received from IDCP partners may be shortened if the partner so requests. Relevant personal data extracted from the IDCP may be retained in OLAF's case files which are stored for a maximum of 15 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.

See response to Question 11

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

Identification data; contact data; professional data.

Case involvement data are not transferred in this processing operation

Data which fall under Article 10 are not included in this processing operation.

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)"

See attachment.

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 IDCP is part of a task carried out in the public interest, i.e. the conduct of external investigations in order to combat fraud, corruption, and other illegal activities affecting the financial interests of the EU. Thus, it is lawful under Article 5 (a) of Regulation 45/2001.

Exemptions and restrictions pursuant to Article 20 (1) (a) and (b) of Regulation 45/2001 may be applicable to this processing activity. The processing is subject to prior checking according to 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:

PLACE AND DATE:23/04/2013

DATA PROTECTION OFFICER: LAUDATI Laraine

INSTITUTION OR BODY:OLAF