

REGISTER NUMBER: 1400

NOTIFICATION FOR PRIOR CHECKING

Date of submission: 02/09/2016
Case number: 2016-0782
Institution: EEAS
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

Controller: European External Action Service

Directorate/Division responsible for managing the personal data processing operation: Human Rights Divisions Global 1 and Global 2 (GLOBAL 1 as of 1-09-2016)

At the time of the notification — in charge of the management of the processing operation:

Heads of Division: Elisabeth Tison (Global 1) and Anette Mandler (Global 2).

Delegated Contact Team/Person: Garrett O'Brien, Policy officer, Global 1

Co-Controller: EU Delegation in each specific third country

2/ Organisational parts of the institution or body entrusted with the processing of personal data

EEAS GLOBAL.1

3/ Name of the processing

Personal data processing through the compilation of logbooks documenting cases involving Human Rights Defenders in third countries

4/ Purpose or purposes of the processing

In line with the new EU Action Plan on Human Rights and Democracy, the EEAS is establishing a system of logbooks for registering cases involving Human Rights Defenders. The logbook system for registering individual Human Rights Defenders' cases will support and facilitate the EEAS (EU Delegations and HQ) in ensuring that there is an appropriate response, and systematic and effective follow-up, to individual cases involving Human Rights Defenders. The logbooks will also allow the EEAS to identify problems or trends in particular countries or regions.

5/ Description of the category or categories of data subjects

Data are processed from the following individuals or group of people:

The primary target group for the logbooks are the Human Rights Defenders in third countries involved in an individual case. (Usually, Human Rights Defenders who have been arrested, attacked, disappeared, threatened, etc.)

While the logbooks are not intended to collect data on other target groups, information on other data subjects might be included in the description of each case. This could include references to family members or other Human Rights Defenders who have contacted the Delegation regarding the case. Reference might also be made to the function of EU diplomats working at the Delegation (Head of Delegation, Deputy Head or other Delegation staff), which could potentially identify the person concerned.

6/ Description of the data or categories of data (*including, if applicable, special categories of data (article 10) and/or origin of data*)

Data (category or type of data), involving personal data, processed are the following:

With regard to primary data subjects (Human Rights Defenders):

Surname; first name; gender; profession; any affiliation with an NGO, political movement or party. In cases where the HRD is being targeted because of their membership of, or association with a particular minority group, this will be recorded*. (E.g.: LGBTI/indigenous/religious minority.)

*In light of the above personal data within the meaning of Article 10 of Regulation (EC) 45/2001 may be processed.

With regard to secondary data subjects (e.g.: family members of the HRDs, other HRDs):

Basic information on other individuals is likely to be included in the description section on the cases. This may include names of individuals and their association with NGOs or other groups.

7/ Information to be given to data subjects

A Privacy Statement linked to this Notification will contain all information on the processing of personal data by the logbook system of recording Human Rights Defender cases and on the rights of data subjects.

The aforementioned distinct Privacy Statement will be available on the EEASzone. The Privacy Statement would be provided to data subjects, unless the provision and the mere information in the logbook would endanger the data subject or other individuals, including family members, other Human Rights Defenders due to the particular political situation in a third country. In these cases Article 20 (c) of Regulation (EC) 45/2001 may apply stipulating that EU institutions and bodies may restrict the application of Article 12 on Information to be given to the Data Subject where such restriction constitutes a necessary measure to safeguard the protection of the data subject or of the rights and freedoms of others.

Taking the aforementioned circumstances into account - within the meaning of Article 13 of Regulation (EC) 45/2001 on Right of Access indicated also under Point 8 of the present Notification - information on the processing operation and on the rights of the data subject will be provided, without constraint, upon the request of the data subject ensuring possible safeguards to verify that the request does come from the data subject him or herself.

The EEAS's intention in recording this information is to more effectively protect Human Rights Defenders, the data subjects. Depending on the situation in each country, colleagues in EU Delegations will be expected to use a degree of judgement and discretion in assessing how much they can disclose to data subjects regarding the recording of their data. Given the sensitivity of the information being recorded, it would, in general, be better to minimise public awareness with regard to the logbooks. This will help to ensure that they are not compromised.

Many of the cases recorded in the logbooks will involve Human Rights Defenders who have been imprisoned, disappeared, held 'incommunicado', or are in hiding, and cannot be located or contacted by the Delegation. In some cases access to detainees might be possible, but only after a lengthy and disproportionate effort that could take years. In certain countries, those activists who are most at risk of violations are primarily located in rural and isolated areas, and it would be extremely burdensome for EU diplomats to contact each of them individually when recording their cases.

In other cases, contact from EU diplomats could potentially endanger the human rights defender concerned. In a considerable number of countries, human rights defenders are often accused of acting as foreign agents, and as a consequence they actively avoid any contact with diplomats. There are cases where Human Rights Defenders wish to have contact with EU diplomats despite such risks, but Delegations do not meet with them to avoid putting them at risk.

8/ Procedures to grant rights of data subjects (*rights of access, to rectify, to block, to erase, to object*)

Data subjects have the right to access their personal data and the right to correct any inaccurate or incomplete personal data, as well as to request the removal of unlawful personal data, which will be implemented within 10 working days after the request has been deemed legitimate. If the data subject has any queries concerning the processing of his/her personal data, s/he may address them to the data controller at the following functional mailbox: GLOBAL-1@eeas.europa.eu.

The Controller may need to reserve the right to verify that the request derives from the Human Rights Defender him/herself concerned in order to ensure the protection of the data subject or of the rights and freedoms of others.

9/ Automated / Manual processing operation

Both.

10/ Storage media of data

The data will be electronically stored in an Excel sheet. Each document will be a restricted document which can only be accessed by an authorised user. The document should be password-protected, and should not be stored on common drives. Any hard copies should be kept in a locked cabinet.

11/ Legal basis and lawfulness of the processing operation

The Lisbon Treaty (Article 21) stipulates that "the Union's action on the international scene shall be guided by the principles which have inspired its own creation, development and enlargement and which it seeks to advance in the wider world: democracy, the rule of law, the universality and indivisibility of human rights and fundamental freedoms, respect for human dignity, the principles of equality and solidarity and respect for the principles of the United Nations Charter and international law."

The Council Decision (2010/427/EU) of 26 July 2010, establishing the organisation and functioning of the European External Action Service [/http://www.eeas.europa.eu/background/docs/eeas_decision_en.pdf/](http://www.eeas.europa.eu/background/docs/eeas_decision_en.pdf/) states that: "In its contribution to the Union's external cooperation programmes, the EEAS should seek to ensure that the programmes fulfil the objectives for external action as set out in Article 21 TUE."

The EU Action Plan on Human Rights and Democracy, adopted by the Foreign Affairs Council on 20 July 2015, includes a series of commitments to step up support for Human Rights Defenders, including Action 31 (b): "introduce logbooks on EU action on specific thematic issues in partner countries, to ensure more systematic follow-up to individual cases and to promote regular exchange of best practice in Guidelines' implementation."

In 2014, the Foreign Affairs Council adopted conclusions to mark the 10th anniversary of the Human Rights Defenders guidelines, which stated that: "the Council reiterated its strong support to human rights defenders all over the world and paid respect to their efforts to promote and protect human rights in often difficult environments. The right of every individual to exercise their freedom of expression, opinion, association and assembly to promote all human rights and fundamental freedoms is indisputable?Human rights defenders play an important role at the local, national, regional and international levels in the promotion and protection of human rights, but frequently find themselves the target of oppression and coercion. The EU will therefore intensify its political and material support to human rights defenders and step up its efforts against all form of reprisals."

The EU Strategic Framework on Human Rights and Democracy, adopted by the FAC in 2012, stated that: "the EU will intensify its political and financial support for human rights defenders and step up its efforts against all forms of reprisals."

EU Foreign Ministers adopted EU Guidelines on Human Rights Defenders in 2004, which were updated in 2008. The guidelines stipulate that EU Heads of Mission should monitor and report on the situation of Human Rights Defenders in the countries in which they are based. "Missions should address the situation of human rights defenders in their reporting, noting in particular the occurrence of any threats or attacks against human rights defenders."

The Guidelines also affirmed the EU's support for the principles contained in the UN Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms, adopted by the UN General Assembly in 1998.

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

HQ:

Head of the Human Rights Division and assigned staff members in the Human Rights Division. Heads of geographic divisions and assigned staff members in the geographic divisions will have access to the logbooks concerning the countries they cover. Assigned staff members should be given access to the logbook and to personal information within it on a strict need-to-know basis. (See also Point 18.)

Delegations:

Head of Delegation, Deputy Head of Delegation, Head of Political Section and assigned staff members.

13/ retention policy of (categories of) personal data

Data on each case will be retained in each logbook as long as the case is ongoing.

Once a case has been resolved, the data should be deleted from the logbook, but can be retained for a maximum of one

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)

Justified requests are treated within 10 working days after the request will have been deemed legitimate.

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,

N/A

15/ Proposed transfers of data to third countries or international organisations

N/A

16/ The processing operation presents specific risk which justifies prior checking (*please describe*):

AS FORESEEN IN:

Article 27.2.(a)

Processing of data relating to health and to suspected offences, offences, criminal convictions or security measures,

Yes. The cases recorded in the logbook will often involve human right defenders who have been charged or convicted of criminal offences, including serious security-related offences, in the third country concerned. These charges are often spurious, and the individuals concerned are often denied the right to a fair trial. In some cases the logbooks will record information on the health of individuals who have been attacked or tortured. The purpose of collecting the data is to help the individuals concerned.

Article 27.2.(b)

Processing operations intended to evaluate personal aspects relating to the data subject,

N/A

Article 27.2.(c)

Processing operations allowing linkages not provided for pursuant to national or Community legislation between data processed for different purposes,

The logbook - although gathering and retrieving information mainly from open sources - personal data may be processed from various data basis that would allow a linkage.

Article 27.2.(d)

Processing operations for the purpose of excluding individuals from a right, benefit or contract,

N/A

Other (general concept in Article 27.1)

N/A

17/ Comments

Description of the processing:

EU Delegations will use the logbooks to register basic details on each case as it arises. Much of this information will be in the public domain, and will be obtained from open sources such as press reports and communications from CSOs and international organisations. In some cases, the information will be conveyed more discretely to the Delegation by family members and activists. Delegations will be asked to use credible sources and record verified information, but there may be cases where there is some uncertainty and inaccurate information is inadvertently recorded. Delegations will be asked to correct inaccurate information as soon as they become aware of it.

The logbooks will also record the EU response to the case, and include periodic updates on further developments and EU actions. The updated logbooks will be transmitted to HQ by secure means on an annual basis, or upon request. In many countries there will be very few or no cases to record, while in others the logbooks will need to be updated regularly.

The management of the logbooks will be a joint responsibility between EEAS Heads of Division for Human Rights and the Heads of Delegation in the third countries concerned.

PLACE AND DATE: Brussels, 05.08.2016

DATA PROTECTION OFFICER: SAVOIA-KELETI Emese

INSTITUTION OR BODY: European External Action Service