

REGISTER NUMBER: 1453

NOTIFICATION FOR PRIOR CHECKING

Date of submission: 06/04/2017

Case number: 2017-0379

Institution: European Parliament

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

European Parliament
Plateau du Kirchberg
B.P. 1601
L-2929 - Luxembourg

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

Office of the Secretary-General,
Person designated as being in charge of the processing - Mr Piotr BARTOSZEWICZ-MALICKI, Advisor at the
Office of Secretary-General, Member of Cabinet

3/ Name of the processing

Whistleblowing procedure

4/ Purpose or purposes of the processing

The purpose of the processing operation is to enable the reporting of fraud, corruption or other serious professional wrongdoing in the European Parliament, to establish reporting channels for whistleblowers, to manage and follow-up reports, and to ensure protection and adequate remedies for whistleblowers, in accordance with Article 22(c) of the Staff Regulations, as well as the Conditions of Employment of Other Servants of the European Union.

Detailed description:

The European Parliament has adopted internal rules about whistleblowing by members of its staff. The rules aim to safeguard the rights and interests of whistleblowers and provide adequate remedies if they are not treated correctly and fairly in relation to their whistleblowing.

Definitions:

A whistleblower is a person who, acting in good faith, forwards to his or her superior, in writing, information on facts of which he or she has become aware during or in connection with the performance of his or her duties and which suggest that serious irregularities may have taken place in the European Parliament.

Serious irregularities includes, for example, illegal activities detrimental to the interests of the European Union, such as fraud, corruption, theft, serious infringements of public procurement rules or a serious failure to comply with the obligations incumbent on officials and other staff members.

Good faith means the firm belief that the information reported is true, i.e. the whistleblower reasonably and honestly believes that the information forwarded and allegations made are substantially true.

False or malicious allegations means allegations that an impartial and reasonable observer placed in the same circumstances would have good reason to regard as false, deceitful or too improbable to be true.

Superior means the relevant head of unit, director or director-general or the Secretary-General.

Procedure

In accordance with Article 22a of the Staff Regulations, members of the European Parliament's staff have the obligation to report, in writing, suspicions of serious irregularities.

Such reports may be made to a superior, or to the European Parliament.

Article 22a of the Staff Regulations also provides for the possibility to report to the European Anti-Fraud Office (OLAF).

Article 22b of the Staff Regulations provides for the additional possibility to report to the President of the Commission or of the Court of Auditors or of the European Parliament or of the Council or to the European Ombudsman, if certain conditions are met.

Obligation to centralise the whistleblowing reports to the Office of the Secretary-General, Mr Piotr Bartoszewicz-Malicki (the designated person in charge of the this processing operation).

Advice and assistance

1. Whistleblowers may, on request, obtain confidential advice on and assistance with reporting serious irregularities.

2. That advice and assistance shall be provided by the whistleblower's superior and/or by the member of cabinet of the Secretary-General's Office with responsibility for relations with OLAF.

Protection for whistleblowers

1. Whistleblowers may not act anonymously. Their identity shall be kept confidential. They may, however, agree to have their identity disclosed to specific persons or authorities.

2. The Administration shall take reasonable steps to help whistleblowers transfer to another post, should they wish to do so. Where warranted, whistleblowers may, after having been heard, be transferred in the interest of the service under Article 7(1) of the Staff Regulations.

3. The Administration shall make sure that whistleblowers are not disadvantaged during staff reports and/or promotion procedures.

4. Where whistleblowers have drawn attention to an activity that is illegal or constitutes a serious failure to comply with the obligations incumbent on officials and other staff members and in which they themselves are implicated, this shall count in their favour in disciplinary proceedings.

5. Anyone making false or malicious allegations shall be denied the protection provided for in paragraphs 1 to 3 and disciplinary proceedings may be taken against them.

Right to information

1. The whistleblower's superior shall acknowledge receipt of the information forwarded to him or her within five working days of receiving it.
2. In accordance with Article 22c of the Staff Regulations, the whistleblower shall be informed within 60 days of the period of time required in order to take appropriate action. He or she shall be informed at the earliest opportunity of any referral of the matter to OLAF.
3. On expiry of the period set by the Administration, the whistleblower shall be informed to the appropriate extent and with due regard for the circumstance of the case and the rights of third parties of the action taken by the institution and, in particular, of the conclusions reached following the investigations carried out and/or the nature of the action to be taken and/or taken.

Appeals

1. If whistleblowers believe that they have been victimised as a result of their actions, they may ask for assistance under Article 24 of the Staff Regulations. Any reprisals against whistleblowers shall be regarded as grounds for disciplinary action.
2. The Administration shall inform whistleblowers of the action it intends to take on their requests for assistance within two months of the date on which the requests were submitted.
3. Where a whistleblower lodges a complaint under Article 90 of the Staff Regulations, the time limit for a response from the Administration shall be reduced to two months, except where there is good reason not to do so.
4. Request and complaints under paragraphs 1 and 3 shall be treated as confidential.

5/ Description of the category or categories of data subjects

- All staff members of the European Parliament, including seconded national officials and trainees;
- Third parties (for instance, contractors, sub-contractors and their employees).
- Members

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

The personal data are contained in the report submitted by the whistleblower and any subsequent document drawn up in response to that initial report. These documents may contain names, contact details, and other personal data. In principle, special categories of data (Article 10) should not be included.

7/ Information to be given to data subjects

Information to data subjects is provided in the Decision of the Secretary-General of the European Parliament on internal rules implementing article 22c of the Staff Regulation (the "Decision"), as well as in the Specific Privacy Statement available on the European Parliament's Intranet (ANNEX I). A copy of both documents should be given to individuals who make a report.

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

Data subjects are informed of their rights and of how to exercise their rights via the Secretary-General's internal rules implementing article 22c of the Staff Regulation and the Specific Privacy Statement. Moreover, during the first contact with the Data Controller, the whistleblower will be informed about his/her rights.

9/ Automated / Manual processing operation

The processing of the operation is manual. Irrespective of the communication channel used by the whistle-blower, a paper file is prepared by the Office of the Secretary-General, and stored in a locked cupboard of the Office of the Secretary-General.

Electronic documents related to the procedure are stored on a network drive accessible only to authorised staff members of the Office of the Secretary-General.

The personal data is used solely for the purpose for which it was provided, namely the whistleblowing procedure and any subsequent procedures directly triggered by it, such as disciplinary procedures.

10/ Storage media of data

Data is stored in paper files kept in a locked cupboard. Electronic files are stored on a network drive of the Office of the Secretary-General.

11/ Legal basis and lawfulness of the processing operation

Legal basis:

Article 22a, 22b and 22c of the Staff Regulations.

Decision of the Secretary-General of the European Parliament on internal rules implementing article 22c of the Staff Regulation.

Note of the Secretary-General informing all Directorates-General on the Compliance Coordination.

Lawfulness:

The processing operation is lawful on the basis of Article 5(a) of Regulation (EC) No 45/2001 (the processing is necessary for the performance of a task carried out in the public interest, namely the management and functioning of the institution).

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

Access is granted on a strict need to know basis.

The recipients of the data are potentially the following:

The Head of Unit concerned, the person designated as being in charge of the processing, the relevant Director or the Director-General, the Secretary-General, Disciplinary Board members, the Internal Auditor, the European Court of Auditors, the Civil Service Tribunal (other EU Courts), the EDPS, OLAF and national judicial authorities.

13/ Retention policy of (categories of) personal data

- Files which do not lead to the opening of an inquiry will be kept for a period of 2 months from the date on which the European Parliament decides to close the file without follow up.
- Files on the basis of which an administrative enquiry or disciplinary procedure are opened should be kept in line with the retention periods foreseen for those files.

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)

Blocking:

The data controller shall take a decision within 15 working days of receiving a request for data to be blocked. If the request is accepted, it shall be acted upon within 30 working days and the data subject notified thereof. Should the request for blocking be rejected, the data controller shall have 15 working days within which to inform the data subject by means of a letter stating the grounds for the rejection.

Erasure:

The data controller shall reply within 15 working days of receiving a request for erasure. If the request is accepted, it shall be acted upon immediately. If the data controller deems the request unjustified, he or she shall have 15 working days within which to inform the data subject by means of a letter stating the grounds for the decision.

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

The European Parliament retains anonymous data for statistical purposes. The European Parliament pays particular attention to preserve anonymity of personal data for these purposes, especially to all the measures necessary to avoid indirect identification.

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

Not applicable.

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,

☒ Article 27.2.(b)

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

☐ Article 27.2.(c)

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

☐ Article 27.2.(d)

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

☐ Other general concept in Article 27.1

17/ Comments

Enclosure:

The Decision of the Secretary-General of the European Parliament on Internal Rules Implementing Article 22c of the Staff Regulation, and

The Specific Privacy Statement.

Note of

the Secretary-General Informing all Directorates-General on the Compliance Coordination.

PLACE AND DATE: Luxembourg, 23 March 2017

DATA PROTECTION OFFICER: Mr Secondo SABBIONI

INSTITUTION OR BODY: European Parliament