

(To be filled out in the EDPS' office)
REGISTER NUMBER: 1387

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NOTIFICATION FOR PRIOR CHECKING

DATE OF SUBMISSION: 16/08/2016

CASE NUMBER: 2016-0737

INSTITUTION: FRA

LEGAL BASIS: ARTICLE 27-5 OF THE REGULATION CE N° 45/2001⁽¹⁾

INFORMATION TO BE GIVEN²

1/ NAME AND ADDRESS OF THE CONTROLLER

Xavier CATALA (Acting Head of Human Resources and Legal Services Department)
European Union Agency for Fundamental Rights (FRA)
Schwarzenbergplatz 11, 1040 Vienna

2/ ORGANISATIONAL PARTS OF THE INSTITUTION OR BODY ENTRUSTED WITH THE PROCESSING OF PERSONAL DATA

Human Resources and Legal Services Department / Human Resources

3/ NAME OF THE PROCESSING

Whistleblowing Rules

4/ PURPOSE OR PURPOSES OF THE PROCESSING

To enable the reporting of "serious irregularities", i.e. illegal activities including fraud, corruption and serious professional misconduct or wrong doings within the FRA. This requires establishing reporting channels for whistleblowers, managing and following-up reports and ensuring protection and adequate remedies for whistleblowers.

¹ OJ L 8, 12.01.2001.

² **Please attach all necessary backup documents**

5/ DESCRIPTION OF THE CATEGORY OR CATEGORIES OF DATA SUBJECTS

All members of staff irrespective of their administrative position. While the whistleblowing rules do not strictly apply to seconded national experts, trainees, interim staff and local agents, these categories of staff are also encouraged to make use of the arrangements set out in this document and the FRA undertakes to protect these categories of staff against retaliation if they do so in good faith.

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 information processed is contained in the report submitted by the whistleblower and any subsequent document drawn up in response to the initial report. These documents may in particular contain names, contact details and other personal data. If the report contains personal information and in particular special categories of data as defined under Article 10 of the Regulation 45/2001 that clearly is not relevant for examining the issues raised in the report, the information will not be further processed. The whistleblower's identity will be treated in confidence.

7/ INFORMATION TO BE GIVEN TO DATA SUBJECTS

An information notice (see Annex 2) will be posted on the intranet of the FRA. Once a whistleblowing procedure has been launched, the FRA will communicate, in a timely manner, the information notice to any data subject involved in a particular whistleblowing procedure, except where the exemptions and restrictions provided for under Article 20 of the Regulation 45/2001 allow for the provision of information to be deferred. In cases where the FRA decides to apply a restriction of information, such motivated decision shall be taken strictly on a case by case basis. The reasons shall prove, for instance, that there is a high risk that giving access would hamper the procedure or undermine the rights and freedoms of the others and they should be documented before the decision to apply any restriction or deferral is taken. The documented reasons shall be made available to the EDPS if requested.

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 and rectify their personal data upon written request e.g. e-mail to the Data Controller. However, rights of access and rectification provided for in Articles 13 and 14 of the Regulation may be restricted under the conditions set out in Article 20 of the Regulation. In particular, the whistleblowing rules provides that the identity of the whistleblower will be treated in confidence, except in exceptional circumstances, for instance when there is a high risk that giving access would hamper the procedure or undermine the rights and freedoms of the others.

9/ AUTOMATED / MANUAL PROCESSING OPERATION

The processing is carried out, in part, by automatic means.

10/ STORAGE MEDIA OF DATA

Physical files are kept in locked cupboards within the office of the HR accessible by a restricted number of HR staff members. Files received electronically are kept in a protected drive of exclusive access of the HR staff.

11/ LEGAL BASIS AND LAWFULNESS OF THE PROCESSING OPERATION

Regulation (EC) No 45/2001, Articles 22a, 22b and 22c of the Staff Regulations, Articles 11 and 81 of the Rules applicable to other servants of the European Union and EB Decision 2012/04 of the FRA of 12 December 2012.

12/ THE RECIPIENTS OR CATEGORIES OF RECIPIENT TO WHOM THE DATA MIGHT BE DISCLOSED

The data are likely to be disclosed to the following persons on a *need to know* basis: immediate superiors; the Heads of Department; the Director; the Data Protection Officer; the data subject of the whistleblowing; Legal Service of the FRA; and OLAF.

13/ RETENTION POLICY OF (CATEGORIES OF) PERSONAL DATA

The conservation period for files which do not lead to the opening of an administrative inquiry or disciplinary procedure, i.e. which relates to alerts found to be unsubstantiated by the FRA or OLAF should be deleted without delay from the date on which FRA decides to close the file without follow-up and at the latest two months after such decision. Files on the basis of which an administrative inquiry or disciplinary procedure are opened are kept in line with the retention periods foreseen for those files in the respective procedure.

13 A/ TIME LIMIT TO BLOCK/ERASE ON JUSTIFIED LEGITIMATE REQUEST FROM THE DATA SUBJECTS

N/A

(Please, specify the time limits for every category, if applicable)

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*):

All processing operations are to be prior checked by the EDPS because they present risks in relation to the processing of data on suspected offences and on the evaluation of the conduct of the suspected persons.

AS FORESEEN IN:

↑ Article 27.2.(a)

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

17/ COMMENTS

List of Annexes:

Annex 1 – EB Decision 2012/04

Annex 2 - Information Notice

PLACE AND DATE:

DATA PROTECTION OFFICER: N. FIKATAS

INSTITUTION OR BODY: FRA