

Register number: 1454

Date of submission: 07/04/2017

Case Number: 2017-0381

Institution: European Defence Agency

Title: Whistleblowing procedure

Legal basis: Art 27-5 Regulation 45/2001

NOTIFICATION

INFORMATION TO BE GIVEN¹

1/ CONTROLLER

(The controller is institution, body, unit or any other the organisational entity determining the purposes and means of the processing of personal data. Please add the directorate/unit in charge)

EUROPEAN DEFENCE AGENCY
Corporate Services Directorate
Human Resources Unit

PROCESSER (IF RELEVANT)

(A processor is a legally separate entity that processes personal data on behalf of the controller. This may be an external service provider or another institution, which processes personal data on behalf of the controller, e.g. video surveillance, medical data)

N/A

2/ PERSON (NAME, TITLE) ENTRUSTED WITH THE PROCESSING OF PERSONAL DATA

(Please specify the person responsible for the processing operation in which personal data is collected/retained – provide name and title.)

Mrs Ginette Manderscheid
Head of Human Resources

3/ NAME AND DESCRIPTION OF THE PROCESSING OPERATION

(Please provide a title and describe the action/operation through which personal data is processed, i.e. collected, used, retained)

Whistleblowing procedure

EDA puts in place general provisions to implement Article 28(4) of the Staff Regulations on a whistleblowing procedure. EDA will be handling sensitive information, also containing personal data within this procedure.

¹ Please attach all relevant documents

4/ PURPOSE(S) OF THE PROCESSING

(Please list the purpose(s) for which personal data is collected and retained)

The purpose of this processing operation is to enable the reporting of illegal activity, fraud, corruption or other serious professional wrongdoing in the European Defence Agency, to establish reporting channels for whistleblowers, to manage and follow-up reports, and to set out the rights and duties of the whistleblower. It also aims to ensure that the Agency protects the whistleblower's legitimate interests and privacy as well as the personal information of the person(s) named by the whistleblower, witnesses and other third parties appearing in the whistleblowing report.

5/ DESCRIPTION OF THE CATEGORY(IES) OF DATA SUBJECT(S)

(Please provide the individuals or group of people whose data are collected and retained)

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

- Staff members (temporary staff, contract staff, SNEs)
- Persons involved in the whistleblowing procedure, incl. the whistleblower, persons named by the whistleblower, witnesses, other third parties appearing the whistleblowing report.

6/ DESCRIPTION OF THE DATA OR CATEGORIES OF DATA (INCLUDING, IF APPLICABLE, SPECIAL CATEGORIES OF DATA (ARTICLE 10) AND/OR ORIGIN OF DATA)

(Please describe the type of data, the field of information with personal data (e.g. name, photo etc.) collected and retained for the aforementioned purpose(s))

Data processed are the following:

- All personal data contained in the report submitted by the whistleblower and any subsequent documents handled in the concrete case
- These documents may contain names, contact details and other identifiers of the persons involved.

Data received but not needed for examining the allegations will be erased from the report.

7/ INFORMATION TO BE PROVIDED TO THE DATA SUBJECTS

(Please specify what type of information is provided to the data subjects and how and where that information is made available to the individuals concerned, i.e. privacy statement, leaflets, training documents, website.)

A specific Privacy Statement linked to this Notification contains all information provided to the Data Subject(s).

All individuals affected by a particular whistleblowing procedure will be directly provided with the privacy statement as soon as practically possible.

Where informing the person named by the whistleblower about the opening of a procedure could jeopardise the conduct of this inquiry, the information might need to be deferred (see Article 20(1)(a) of Regulation 45/2001). The reasons for any restriction or the postponing of informing persons concerned will be explained in a note.

8/ PROCEDURES TO GRANT DATA SUBJECTS' RIGHTS (RIGHTS OF ACCESS, TO RECTIFY, TO BLOCK, TO ERASE, TO OBJECT)

(Please specify how rights of the data subject provided under Regulation 45/2001 are ensured, such as the right to access, to modify, correct, rectify, block, erase and the right 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 their personal data, which will be implemented within 15 working days after the request has been deemed legitimate.

If necessary, as not to jeopardise the conduct of the whistleblowing procedure, the right to access or rectification can be limited. The reasons for the limitation will be explained.

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 mailbox: edahradmin@eda.europa.eu

9/ AUTOMATED / MANUAL PROCESSING OPERATION

(Please specify whether the data is collected through automated or manual means or both. Any electronic processing (excel sheets, databases, online applications) is considered automated.)

Data is processed through manual and electronic means.

Access is effectively limited and controlled for whistleblowing cases. Exchange of emails shall be strictly limited to authorised recipients on a need to know basis and treated through confidential emails that contain only strictly relevant data.

If sensitive information has to be exchanged with the external partners mentioned among the list of recipients, IT shall provide, upon request, certificates (Public/private keys) externally recognised to encrypt and/or sign that information.

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 internal investigations and disciplinary procedures.

10/ STORAGE MEDIA OF DATA

(Please specify where and how the data is stored, including the description of security measures, if relevant)

Data storage by means of paper filing in locked cupboards of:

- HR Head of Unit;
- Legal Advisor, as relevant.

Electronic documents are stored in shared drive with access to authorised person(s) only (password protected).

11/ LEGAL BASIS AND LAWFULNESS OF THE PROCESSING OPERATION

(Please indicate the legal basis for the processing operation. This could be the specific legal act related to the action, e.g. Implementing Rules, Staff Regulation, Financial Regulation, the specific mandate or Council Decision or Article 5 (a) of Regulation (EC) No 45/2001.)

- Article 27 and Article 28 of Council Decision 2016/1351 of 4 August 2016 concerning the Staff Regulations of the European Defence Agency, and repealing Decision 2004/676/EC (“Staff Regulations”)
- Article 7 and Article 8 of Council Decision 2016/1352 of 4 August 2016 concerning the rules applicable to national experts seconded to the European Defence Agency, and repealing Decision 2004/677/EC
- **EDA Decision No xx/xx of xx** adopting general provisions to implement Article 28(4) of the Staff Regulations on whistleblowing procedure
- Decision 16/04 of 22 February 2016 concerning the terms and conditions for internal investigations in relation to the prevention of fraud, corruption and any illegal activity, and in particular to Article 4 thereof.

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

(Please describe the individuals or the group of people who may have access to the collected and processed data)

The recipients are determined on a case-by-case basis. Personal information is transferred only if necessary for the legitimate performance of tasks covered by the competence of the recipient.

The recipient of the whistleblowing information, namely the superior, shall transmit it to the Legal Advisor for confidential processing.

The identity of the whistleblower and of person(s) named by the whistleblower or other third parties shall be kept confidential.

Recipients may be:

- Head of Unit concerned
- Legal Advisor
- Human Resources Unit
- Investigators
- Members of the Disciplinary Board
- Senior Management
- OLAF in accordance to Article 4.1 of the Decision 16/04 of 22 February 2016

Involvement of staff in the whistleblowing procedure must be strictly limited on a need to know-basis and only when necessary for the legitimate performance of tasks covered by the competence of the recipient.

13/ RETENTION POLICY OF (CATEGORIES OF) PERSONAL DATA

(Please specify for how long the data will be retained, i.e. kept for the pre-determined purpose)

For files that are closed without follow-up, data will be retained for a maximum of 2 months after completion of investigation of the facts alleged in the whistleblower’s report.

For files that lead to a follow-up (internal investigations, disciplinary procedure) data will be retained for period of time stipulated by these follow-up procedures.

A final report, containing anonymised data only, may be kept for an unlimited time.

13 BIS/ TIME LIMITS FOR BLOCKING AND ERASURE OF THE DIFFERENT CATEGORIES OF DATA

(Please specify the time limits to block/erase the data due to justified legitimate request of the data subject; provide time limits for each category, if applicable)

Justified requests are treated within 15 working days after the request has been deemed legitimate.

14/ HISTORICAL, STATISTICAL OR SCIENTIFIC PURPOSES

(In case data is stored for longer periods than mentioned above, please specify why data must be kept in a form permitting identification and cannot be anonymised)

EDA may retain anonymous data for statistical purposes. EDA 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

(Please provide details on the destination, in case it is foreseen that data is to be transferred to third countries or International Organisations. Please indicate the legal grounds for transfer under Article 9 of Regulation 45/2001.)

N/A

16/ THE PROCESSING OPERATION PRESENTS SPECIFIC RISK WHICH JUSTIFIES PRIOR CHECKING

(Please describe each point according to specific risk(s) in line with the articles listed below – where applicable)

Article 27.2(a)

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

The whistleblowing procedure serves to enable the reporting of suspected illegal activity, fraud, corruption or other serious professional wrongdoing in the EDA and thus may cover suspected offences, offences, criminal convictions and security measures.

Article 27.2(b)

Processing operations intended to evaluate personal aspects relating to data subjects

In the course of the whistleblowing procedure EDA carries out an evaluation of the conduct of persons named by the whistleblower.

Article 27.2(c)

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

Article 27.2(d)

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

Other (general concept under Article 27.1)

17/ COMMENTS

OBLIGATIONS OF THE CONTROLLER

By signing the present notification form the Controller guarantees that the processed personal data described in the aforementioned notification will be:

- processed fairly and lawfully
- collected only for the purpose(s) indicated
- accurate and kept up to date
- kept for no longer than necessary

The Controller declares the accuracy of the above statements and undertakes to notify any change affecting this information to the Data Protection Officer.

PLACE AND DATE:

THE CONTROLLER: