

REGISTER NUMBER: 148

NOTIFICATION FOR PRIOR CHECKING

Date of submission: xx/01/2007

Case number: 2007-048

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 adress of the controller

2) Name and First Name of the Controller:CRETIN Thierry

3) Title:Head of Unit

4) Directorate, Unit or Service to which the Controller is attached:A.03

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

External investigations and operations, direct expenditure sector

4/ Purpose or purposes of the processing

To carry out external investigations in the areas of Direct expenditure in order to fight against fraud, corruption and any other illegal activity affecting the financial interests of the European Communities, and if found, to refer the results of OLAF's investigations to the appropriate national or Community authorities for judicial, administrative, legislative or financial follow-up.

5/ Description of the category or categories of data subjects

14) Data Subject(s) concerned:

Staff of the EU institutions, bodies, offices and agencies involved in the matter under investigation as whistleblowers, informants or witnesses;

Persons outside the EU institutions, bodies, offices and agencies, who are mentioned in the documents kept in the file as a result of OLAF investigative activities (eg person concerned, managers of the companies concerned, informants and witnesses).

Members of staff of Member States and third countries administrations, accounting or auditing bodies, staff of international organisations, professional services acting as operational partners to OLAF.

16) Category(ies) of Data Subjects:

Staff of the EU institutions, bodies, offices and agencies involved in the matter under investigation as whistleblowers, informants or witnesses;

Persons outside the EU institutions, bodies, offices and agencies, who are mentioned in the documents kept in the file as a result of OLAF investigative activities (eg person concerned, managers of the companies concerned, informants and witnesses).

Members of staff of Member States and third countries administrations, accounting or auditing bodies, staff of international organisations, professional services acting as operational partners to OLAF.

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

name, address, telephone number, e-mail address, date of birth, nationality, profession, employer, statements made regarding events under investigation where the data subject is mentioned, evidence or notes mentioning the data subject in relation to the events under investigation, information concerning personal relationships if relevant to the investigation (for example, possibility of a conflict of interest).

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; professional data; case involvement data. No data fields which fall under Article 10, unless they are directly relevant to the matter under investigation.

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'

Data subjects will be advised of their rights through the OLAF standard letters, which can be found in the attachment.

Whistleblowers: Letter 1

Informants: Letter 2

Witnesses: Letter 3

Persons Concerned: Letters 4-8

Member States and third country authorities (see attached privacy statement, to be inserted in first letter)

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' :

The data subjects are informed of their rights through the standard letters or privacy statement as specified in response to Question 15(a).

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)"

Conducting administrative investigations outside the Community institutions, bodies, offices and agencies for the purpose of detecting fraud or other irregular conduct of natural or legal persons in the direct expenditure sector; maintaining investigation files.

For a description of OLAF's processing of personal data in its investigations, see Section 2 of the "Memorandum in support of notification for prior checking with the European Data Protection Supervisor pursuant to Article 27 of Regulation 45/2001 concerning OLAF's processing of personal data in the context of internal investigations", attached to the notification in case 2005-0418 (DPO-7). This description, provided in the context of the notification concerning internal investigations, applies equally to external investigations, with the exception of access to the premises, which is an investigation activity only applicable to internal

8) Automated Processing operation(s):

The Case Management System (CMS) contains all case-related documentation created during the investigation process, including correspondence and documents forwarded to EU institutions, bodies, offices and agencies. For details, see section 2.2. of Memorandum in support of notification for prior checking with the EDPS pursuant to Article 27 of Reg 45/2001 concerning OLAF's processing of personal data in the context of internal investigations (DPO-7; C2005-0418).

9) Manual Processing operation(s):

All manual processing of personal data is done via the CMS. For details, see section 2.2. of Memorandum in support of notification for prior checking with the EDPS pursuant to Article 27 of Regulation 45/2001 concerning OLAF's processing of personal data in the context of internal investigations (DPO-7; C2005-0418).

10/ Storage media of data

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CMS electronic data are stored in an Oracle database protected by a specific OLAF firewall. Paper data are stored in the OLAF "Grefte" and in working files of the investigators.

See also Memorandum in support of notification for prior checking with the EDPS, pursuant to Article 27 of Reg 45/2001 concerning OLAF's processing of personal data in the context of internal investigations, point 2.3.

11/ Legal basis and lawfulness of the processing operation

11) Legal basis of Processing:

Arts. 3 and 9 of Regulation (EC) 1073/99;

Art. 9 of Regulation nr.2988/95;

Arts. 2 and 6 of Regulation 2185/96;

Arts. 18 and 20 of Regulation 2321/2002;

Art. 18 of Decision 2000/596;

Art. 9 of Regulation 1655/2000;

Art. 6 of the Commission Decision adopting the provisions concerning the responsibilities of the Commission and the Member States as regards the national agencies in the general guidelines for implementing the Leonardo da Vinci programme, in conjunction with the operating agreement between the Commission and the National Agency on the annual or multi-annual work programme, Decision 1031/2000/CE; Agreements with the implementing agencies as regards programs Leonardo da Vinci and Youth.

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 data are processed in the context of conducting assessments and investigations to protect the financial interests of the European Communities in accordance with Regulation 1073/99 and the other legal provisions specified in the response to Question 11 and is therefore lawful under Article 5(a) of regulation 45/2001. The processing may be subject to the exemptions and limitations laid down in Article 20 (1) (a) and (b). The processing is subject to prior checking under Article 27 (2) (a) of the Regulation.

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

20) Recipient(s) of the Processing:

21) Category(ies) of recipients:

- the concerned Community institutions, bodies, offices or agencies
- competent Member State authorities
- competent authorities in third countries and international organisations.

13/ retention policy of (categories of) personal data

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OLAF may keep both electronic and paper files related to investigations for up to 20 years after the date on which the investigation was closed.

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)
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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

In order to allow for the comparison of precedents, and the compilation of statistics, final case reports may be kept in anonymised form for 50 years.

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 OLAF's memorandum on transfers to third countries and international organisations (D/04668 of 13 June 2005, C-2005-0154).

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

See OLAF's memorandum on transfers to third countries and international organisations (D/04668 of 13 June 2005, C-2005-0154).

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

7) Description of Processing:

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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:

36) Do you publish / distribute / give access to one or more printed and/or electronic directories?

Personal Data contained in printed and/or electronic directories of users and access to such directories shall be limited to what is strictly necessary for the specific purposes of the directory.

If Yes, please explain what is applicable.

no

37) Complementary information to the different questions if applicable, including attachments to this notification which should not be public :

PLACE AND DATE:24/01/2007

DATA PROTECTION OFFICER: LAUDATI Laraine

INSTITUTION OR BODY:OLAF