REGISTER NUMBER: 189

NOTIFICATION FOR PRIOR CHECKING

Date of submission: 21/03/2007

Case number: 2007-202

Institution: OLAF

Legal basis: article 27-5 of the regulation CE 45/2001(1)

INFORMATION TO BE GIVEN(2)

(2) Please attach all necessary backup documents

1/ Name and address of the controller

2) Name and First Name of the Controller: MAKELA Mika

3) Title: Head of Unit

4) Directorate, Unit or Service to which the Controller is attached: C.04

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

Mutual Assistance Exchanges

4/ Purpose or purposes of the processing

To assist competent authorities in the Member States referred to in Council Regulation (EC) 515/97 in preventing, investigating and prosecuting violations of customs or agricultural legislation and to enhance the effectiveness of the cooperation among Member States and between them and the Commission.
5/ Description of the category or categories of data subjects

14) Data Subject(s) concerned:

1. Individuals and companies mentioned in the mutual assistance exchanges communicated between the Member States’ competent authorities and OLAF, and in particular, individuals or companies involved in operations detected or planned which constitute, or appear to the applicant authority to constitute, breaches of customs or agricultural legislation.
2. The officials of the Member State authorities working on the matter.

16) Category(ies) of Data Subjects:

1. Individuals and companies mentioned in the mutual assistance exchanges communicated between the Member States’ competent authorities and OLAF, and in particular, individuals or companies involved in operations detected or planned which constitute, or appear to the applicant authority to constitute, breaches of customs or agricultural legislation.
2. The officials of the Member State authorities working on the matter.

6/ Description of the data or categories 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

1. Surname, forename, maiden name, alias
2. Date, place and country of birth
3. Identity document/passport number
4. Nationality
5. Gender, marital status, family members
6. Address, communication details (telephone and fax number), e-mail address, website
7. Any particular or permanent physical characteristics
8. Reason for inclusion of data
9. Suggested action and taken actions
10. Notification if arrested or under arrest
11. Warning indicating any history of being armed, violent or escaping

No data fields which fall under article 10, unless they are directly relevant to the matter under investigation.

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; financial data; case involvement data; criminal record data.

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'

See the attached privacy statement regarding persons mentioned in the messages. The users of the system have access to the privacy statement of AFIS.

8/ Procedures to grant rights of data subjects (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':

See the reply to 15a.

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)"

See attachment.

8) Automated Processing operation(s):

See attachment in reply to Question 7.

9) Manual Processing operation(s):

See attachment in reply to Question 7

10/ Storage media of data

Paper and hard disk

11/ Legal basis and lawfulness of the processing operation

11) Legal basis of Processing:

Council Regulation (EC) no. 1073/1999, Article 1(2);
Council Regulation (EC) No 515/97, O.J. L 082, 22/03/1997;
Mutual Administrative Assistance Agreements/Protocols in customs matters concluded between EC and some third countries (see OLAF letter to the EDPS no. D/08412 of 18.10.2005, to which the agreements were appended).
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 processing operations are necessary to fulfill the Commission's responsibilities under the legal framework specified in reply to Question 11 and thus lawful pursuant to Article 5(b) of the Regulation 45/2001. The exemptions and restrictions specified in Article 20 may be applicable to this processing activity in some cases. This processing is subject to prior checking according to Article 27 (a).

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

20) Recipient(s) of the Processing:

Nominated users of the AFIS System in OLAF, in the Member States or Third Countries competent authorities as described in the notification AFIS Infrastructure notification (DPO-77), including:
- concerned EU institutions, bodies, offices or agencies
- competent national authorities
- competent third country authorities and international organisations.

21) Category(ies) of recipients:

Nominated users of the AFIS System in OLAF, in the Member States or Third Countries competent authorities as described in the notification AFIS Infrastructure notification (DPO-77), including:
- concerned EU institutions, bodies, offices or agencies
- competent national authorities
- competent third country authorities and international organisations.

13) Retention policy of (categories of) personal data

The Commission may keep both electronic and papers files related to operations detected or planned which constitute, or appear to to the applicant authority to constitute, breaches of customs or agriculture legislation for a maximum period of 10 years from the date on which the file was created.

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)

(On justified legitimate request from the data subject) (Please, specify the time limits for every category, if applicable)

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

Not applicable.

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) and letter from OLAF DPO to EDPS no. D/09470 of 28/11/2006.

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) and letter from OLAF DPO to EDPS no. D/09470 of 28/11/2006.

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

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)"

See attachment.

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 processing operations are necessary to fulfill the Commission’s responsibilities under the legal framework specified in reply to Question 11 and thus lawful pursuant to Article 5(b) of the Regulation 45/2001. The exemptions and restrictions specified in Article 20 may be applicable to this processing activity in some cases.

This processing is subject to prior checking according to Article 27 (a).

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,
<table>
<thead>
<tr>
<th>Yes.</th>
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<tbody>
<tr>
<td>Article 27.2.(c) Processing operations allowing linkages not provided for pursuant to national or Community legislation between data processed for different purposes,</td>
</tr>
<tr>
<td>No.</td>
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<tr>
<td>Article 27.2.(d) Processing operations for the purpose of excluding individuals from a right, benefit or contract,</td>
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<tr>
<td>No.</td>
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<tr>
<td>Other (general concept in Article 27.1)</td>
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<tr>
<td>No.</td>
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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: 21/03/2007
DATA PROTECTION OFFICER: LAUDATI Laraine
INSTITUTION OR BODY: OLAF