

PRIVACY NOTICE FOR

PROCESSING OF COMPLAINTS RECEIVED FROM THE EUROPEAN OMBUDSMAN

1. DESCRIPTION OF THE PROCESSING OPERATION

Pursuant to Article 3(8) of Regulation (EU) 2018/1725¹, the controller of this processing operation in OLAF is the Legal Advice Unit².

Pursuant to Article 228 of the Treaty on the Functioning of the European Union ("TFEU"), any citizen of the Union or any natural or legal person residing or having its registered office in a Member State may submit a complaint to the European Ombudsman, concerning instances of maladministration in the activities of the Union institutions, bodies, offices or agencies, with the exception of the Court of Justice of the European Union acting in its judicial role. The European Ombudsman examines the complaints and conducts inquiries for which he/she finds grounds, including those against OLAF, in accordance with Regulation (EU, Euratom) 2021/1163 laying down the regulations and general conditions governing the performance of the Ombudsman's duties (Statute of the European Ombudsman)³.

The processing of personal data in relation to complaints referred by the European Ombudsman to OLAF consists in registering the entry of the complaint, transmitting the complaint to the unit(s) concerned by the complaint, preparing and sending OLAF's views on the complaint and the questions raised by the European Ombudsman and replying to the Ombudsman's requests for information. Where applicable, OLAF also follows up on proposals for a solution, suggestions for improvement and recommendations by the Ombudsman. OLAF maintains files of complaints, replies and related documents, in line with the applicable retention periods.

The processing of the personal data will not be used for any automated decision-making, including profiling.

Complaints and replies thereto, which concern OLAF cases, are registered in the relevant case file in the OLAF case management system ("OCM").

¹ OJ L 295, 21.11.2018, p. 39–98.

² For the purpose of Regulation (EU) 2018/1725 and in accordance with Article 3(8) thereof, 'controller' means the Union institution or body or the directorate-general or any other organisational entity which, alone or jointly with others, determines the purposes and means of the processing of personal data. This function needs to be distinguished from that of the Controller of procedural guarantees set out in Article 9a of Regulation (EU, Euratom) No 883/2013, which has a different role.

³ OJ L 253, 16.7.2021, p. 1–10.

Complaints and replies thereto, which do not concern OLAF cases are registered directly in the European Commission's advanced records system (ARES), which is operated by the European Commission in compliance with the Regulation (EU) 2018/1725.

In principle, OLAF does not respond directly to the complainant but to the European Ombudsman, unless the Ombudsman requests OLAF to reply directly to the complainant.

The purpose of the processing is to comply with the requirements of Article 228 TFEU and of Regulation (EU, Euratom) 2021/1163.

2. LEGAL BASIS FOR THE PROCESSING

The legal basis for this processing operation is Article 5(1)(b) of Regulation (EU) 2018/1725, read in conjunction with Article 228 TFEU and Regulation (EU, Euratom) 2021/1163.

3. CATEGORIES OF PERSONAL DATA COLLECTED

In order to carry out this processing operation OLAF collects the following categories of personal data:

In relation to the complainant and any other persons relevant to the complaint or any follow up action related to the complaint, the personal data collected are the identification and contact information (name, address, e-mail, telephone, fax), professional and case involvement data, and information related to the complaint. In some cases, these could include data which fall under Article 10 of Regulation (EU, Euratom) 883/2013⁴ where it is relevant to the complaint.

The data are received from the European Ombudsman, the complainant, other services of the European Commission or other EU institutions, offices, bodies or agencies, third parties or may originate from related OLAF files.

Exceptionally, in duly justified cases, the complaints or the related OLAF case files may contain special categories of data falling under Article 10 of Regulation (EU) 2018/1725.

4. WHO HAS ACCESS TO YOUR INFORMATION AND TO WHOM IS IT DISCLOSED?

OLAF staff who are responsible for dealing with complaints to the European Ombudsman in the Legal Advice Unit, investigative units or other staff in charge of the case(s) concerned, an OLAF's Director and the OLAF Director-General, as the case may be, as well as the European Ombudsman and the staff members who assist the Ombudsman have access to the personal data. Where further action is taken by the complainant, relevant staff of the European Commission's Legal Service and other relevant Commission services, the European Data Protection Supervisor ("EDPS"), the complainant's legal counsel and court personnel, as necessary, may also have access to the personal data. Depending on the subject matter of a complaint to the European Ombudsman, the Supervisory Committee of OLAF⁵ or the Controller of procedural guarantees⁶ may also have access to the personal data, as necessary.

⁴ OJ L 248, 18.9.2013, p. 1-22.

⁵ According to Article 15(1) of Regulation (EU, Euratom) No 883/2013, the Supervisory Committee of OLAF monitor developments concerning the application of procedural guarantees and the duration of investigations. OLAF keeps the Supervisory Committee regularly informed of its activities, including by providing information on the duration of its investigations and on complaints concerning procedural guarantees dealt with by OLAF and the European Ombudsman.

⁶ Article 9b of Regulation (EU, Euratom) No 883/2013 sets out a complaints mechanism, allowing a person concerned within the meaning of that Regulation to lodge a complaint with the Controller of procedural guarantees, set out by Article 9a of that Regulation, regarding the Office's compliance with the procedural guarantees referred to in Article 9, as well as on the grounds of an infringement of the rules applicable to investigations by the Office, in particular infringements of procedural requirements and fundamental rights. In

The information is disclosed on a need to know basis only, to persons responsible for dealing with the complaint or with a follow up action brought about by the complainant.

5. HOW DO WE PROTECT AND SAFEGUARD YOUR INFORMATION?

In order to protect your personal data, a number of technical and organisational measures have been put in place. Technical measures include appropriate actions to address online security, risk of data loss, alteration of data or unauthorised access, taking into consideration the risk presented by the processing and the nature of the data being processed. Organisational measures include restricting access to the data to authorised persons with a legitimate need to know for the purposes of this processing operation.

6. HOW LONG DO WE KEEP YOUR DATA?

Personal data contained in complaints to the European Ombudsman and replies thereto may be retained by OLAF for a maximum of 5 years after the decision of the Ombudsman is issued unless they form part of an OLAF's case file and will be stored therein for a maximum of 15 years.

7. WHAT ARE YOUR RIGHTS AND HOW YOU CAN EXERCISE THEM?

You have the right to request access to your personal data, rectification or erasure of the data, or restriction of their processing and to object to their processing on grounds relating to your personal situation.

Any request to exercise one of those rights should be directed to the controller (OLAF-FMB-DATA-PROTECTION@ec.europa.eu). Where you wish to exercise your rights in the context of one or several specific processing operations or files, please provide their description and reference(s) in your request.

The controller may apply exceptions in accordance with Regulation (EU) 2018/1725 and restrictions based on Article 25 thereof in accordance with the Commission Decision (EU) 2018/1962⁷.

8. CONTACT DETAILS OF THE DATA PROTECTION OFFICER

You may contact the Data Protection Officer of OLAF (OLAF-FMB-DPO@ec.europa.eu) with regard to issues related to the processing of your personal data under Regulation (EU) 2018/1725.

9. RIGHT OF RECOURSE

You have the right to have recourse to the EDPS (edps@edps.europa.eu) if you consider that your rights under Regulation (EU) 2018/1725 have been infringed as a result of the processing of your personal data by OLAF.

that regard, Article 9b(4) of the Regulation provides that: "Without prejudice to Article 10, the Office shall transmit to the Controller all information necessary for the Controller to assess whether the complaint is justified as well as information for the purpose of resolving the complaint and enabling the Controller to issue a recommendation."

⁷ OJ L 315, 12.12.2018, p. 41–46.