2024

PRIVACY NOTICE FOR

PROCESSING OF REQUESTS FOR PUBLIC ACCESS TO DOCUMENTS UNDER REGULATION (EC) 1049/2001

1. DESCRIPTION OF THE PROCESSING OPERATION

Pursuant to Article 3(8) of Regulation (EU) 2018/1725[1], the controller of this processing operation in OLAF is the Legal Advice Unit[2].

Pursuant to Regulation (EC) 1049/2001[3], any citizen of the Union, and any natural or legal person residing or having its registered office in a Member State, has a right of access to documents of the institutions, including OLAF, subject to the principles, conditions and limits defined in this Regulation.

According to Commission Decision 2001/937/EC, ECSC, Euratom[4] citizens of third countries not residing in a Member State and legal persons not having their registered in one of the Member States shall enjoy the right of access to Commission documents, including OLAF, on the same terms as any citizen of the Union, and any natural or legal person residing or having its registered office in a Member State.

The processing of personal data by the Legal Advice Unit in relation to requests from the public for access to OLAF documents pursuant to Regulation (EC) 1049/2001 consists in registering the entry of the request, transmitting the request to the responsible units, preparing and sending OLAF's response to the request, and may also imply requesting the identification and contact information of the applicant. Where necessary, OLAF may consult the European Commission's Legal Services or other Commission services, or third parties, e.g. originators of documents. OLAF maintains files of complaints, responses, and related documentation, in line with the applicable retention periods.

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

[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 145, 31.5.2001, p. 43–48.
[4] OJ L 345, 29.12.2001, p. 94–98.

Requests and replies for access to documents held by OLAF, which concern OLAF cases, are registered in the relevant case file in the OLAF case management system ("OCM").

Requests and replies which do not concern OLAF cases are registered directly in the Commission's central database, the EASE application and each reply is registered in the European Commission's advanced records system (ARES). Both systems are operated by the European Commission in compliance with the Regulation (EU) 2018/1725.

OLAF responds directly to the applicant.

The purpose of the processing is to ensure conformity with the requirements of Regulation (EC) 1049/2001.

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 Regulation (EC) 1049/2001 and Commission Decision 2001/937/EC, ECSC, Euratom.

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 applicant, and any follow up action following the request, the personal data collected are the identification and contact information of the applicant (name, address, e-mail, telephone, fax), and personal data relating to persons whose names are mentioned in the request or in the documents that are the subject of the request. In exceptional circumstances, these could include data which fall under Article 10 of Regulation (EU, Euratom) 883/2013[5] where it is relevant to the request.

The data are received from the applicant or other services of the European Commission or other EU institutions, offices, bodies or agencies, if the request for public access to documents was initially addressed to them, or may originate from related OLAF files.

Exceptionally, in duly justified cases, the requests 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 responsible for dealing with the request in the Legal Advice Unit, investigative units or other staff in charge of the case(s) concerned, an OLAF's Director and the OLAF's Director-General, as the case may be, have access to the personal data. In addition, staff of the European Commission's Legal Service, and other Commission services responsible for carrying out this processing operation, or staff of the European Data Protection Supervisor ("EDPS") or the European Ombudsman responsible for dealing with a related complaint, as well as the applicant's legal counsel and court personnel, and third parties, within the meaning of Articles 4(4) and 3(b) of Regulation (EC) 1049/2001, and Article 5 of Commission Decision 2001/937/EC, may also have access to the personal data.

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

[5] OJ L 248, 18.9.2013, p. 1–22.

When public access is requested to documents containing personal data, Regulation (EU) 2018/1725 becomes fully applicable[6]. Personal data that appear in the requested document(s) may only be disclosed to the applicant following an assessment under Article 9(b) of that Regulation.

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 requests for public access to documents and the replies thereto may be retained by OLAF for a maximum of 5 years after the response has been sent 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 CAN YOU 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 Commission Decision 2018/1962[7].

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.

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[6] See by analogy, Judgment of the Court of Justice of 29 June 2010, C 28/08 P, *Commission v. The Bavarian Lager*, ECLI:EU:C:2010:378.

[7] OJ L 315, 12.12.2018, p. 41–46.