2024

PRIVACY NOTICE FOR

PROCESSING OF COMPLAINTS RECEIVED FROM THE EUROPEAN DATA PROTECTION SUPERVISOR

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].

Any natural person, who considers that their rights under Regulation (EU) 2018/1725 have been infringed as a result of the processing of their personal data by OLAF, has the right to lodge a complaint to the European Data Protection Supervisor (EDPS).

The processing of personal data by the Legal Advice Unit in relation to complaints referred by the EDPS to OLAF and to related questions sent to OLAF by the EDPS 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 in cooperation with the delegated controllers on the questions raised by the EDPS and replying to the EDPS further requests for information. Where applicable, OLAF also follows up on recommendations by the EDPS and informs the EDPS accordingly. OLAF does not respond directly to the complainant, but to the EDPS.

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.

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

Requests 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.

[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.

The purpose of the processing is to comply with the requirements of Regulation (EU) 2018/1725, in particular in the context of Articles 57, 58, 63, 64, 66 and 68 thereof.

2. LEGAL BASIS FOR THE PROCESSING

The legal basis for the processing is Article 5(1)(b) and Articles 57 to 59 of Regulation (EU) 2018/1725, read in conjunction with the Commission Decision (EU) 2018/1962[3].

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 exceptional circumstances, these could include data which fall under Article 10 of Regulation (EU, Euratom) 883/2013[4], where it is relevant to the complaint.

The data are received from the EDPS, 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 responsible for dealing with complaints to the EDPS in the Legal Advice Unit, investigative units or other staff in charge of the case(s) concerned, an OLAF's Director and the Director-General and the OLAF DPO, as the case may be, as well as the EDPS and the staff members who assist the EDPS 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 Ombudsman, 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 submitted by a person concerned to the Controller of procedural guarantees[5], the latter may also have access to the personal data contained in a complaint submitted to the EDPS and registered in an OLAF investigation file, as necessary, for assessing the admissibility of complaints[6].

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[3] OJ L 315, 12.12.2018, p. 41–46.

[4] OJ L 248, 18.9.2013, p. 1–22.

[5] 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 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."

[6] In line with Article 5 of the Decision of the Controller of procedural guarantees adopting implementing provisions for the handling of complaints, 2022/C 494/07, OJ C 494, 28.12.2022, p. 17–23.

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 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 EDPS may be retained by OLAF for 10 years after the decision of the EDPS is issued, unless they form part of an OLAF's case file and will be stored therein for a maximum of 15 years.

7. HOW CAN YOU VERIFY, MODIFY OR DELETE YOUR INFORMATION?

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 in accordance with the Commission Decision (EU) 2018/1962.

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.