

PRIVACY NOTICE FOR

PROCESSING OF COMPLAINTS DEALT WITH BY THE CONTROLLER OF

PROCEDURAL GUARANTEES

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.

Persons concerned in investigations conducted by OLAF are entitled to lodge a complaint with the Controller of procedural guarantees established by Article 9a of Regulation (EU, Euratom) No 883/2013³, pursuant to the complaints mechanism set out in Article 9b of the same Regulation.

The processing of personal data in relation to complaints referred by the Controller of procedural guarantees to OLAF consists in registering the entry of the complaint, transmitting the complaint to the responsible unit(s) concerned by the complaint, preparing and sending OLAF's views on the complaint and the questions raised by the Controller, and replying to the Controller's further requests for information. Where applicable, OLAF also follows up on the Controller's invitations to take action to resolve the complaint or the Controller's recommendations and informs the Controller accordingly, within the deadlines set out in Article 9a of Regulation (EU, Euratom) No 883/2013 and/or by the Controller⁴. 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, requests and replies thereto are registered in the relevant case file in the OLAF case management system ("OCM").

OLAF does not respond directly to the complainant but to the Controller. However, where the Controller issued a recommendation and the Director-General of OLAF decides not to follow it, the Director-General shall communicate to the complainant and to the Controller the main reasons for that decision, unless such a communication would affect the on-going investigation.

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 248, 18.9.2013, p. 1–22.

⁴ In line with 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 purpose of the processing is to comply with the requirements of Article 9(b) of Regulation (EU, Euratom) 883/2013.

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 9(b) of Regulation (EU, Euratom) 883/2013.

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) 883/2013, where it is relevant to the complaint.

The data are received from the Controller of procedural guarantees, 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 Controller of procedural guarantees 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 Controller of procedural guarantees and the staff members of the Secretariat who assist the Controller 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 European Data Protection Supervisor ("EDPS"), the complainant's legal counsel and court personnel, as necessary, 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 complaint or with a follow up action.

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 Controller of procedural guarantees and registered in OLAF case files are retained 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) 2018/1962⁵.

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.

⁵ OJ L 315, 12.12.2018, p. 41-46.