2024

PRIVACY NOTICE FOR

PROCESSING OF REQUESTS AND COMPLAINTS UNDER ARTICLE 90A OF THE STAFF REGULATIONS

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 person to whom the EU Staff Regulations[3] apply may submit to the Director-General of OLAF a request within the meaning of Article 90(1) of the said Regulations, asking the Director-General to take a decision relating to him/her in connection with investigations by OLAF. Such person may also submit to the Director-General of OLAF a complaint within the meaning of Article 90(2) of the Staff Regulations against an act adversely affecting him/her in connection with investigations by OLAF[4].

The processing of personal data by the Legal Advice Unit in relation to requests and complaints under Article 90a of the Staff Regulations consists in registering the entry of the complaint, transmitting the complaint to the responsible units, preparing and sending OLAF's views on the issues raised by the requestor or the complainant. Where necessary, the Legal Advice Unit prepares a draft reply that is sent for consultation to the European Commission's Legal Service. On receipt of any advice from the Legal Service, OLAF finalises the response to the requestor or complainant. OLAF maintains files of complaints, responses, and related documentation, in line with the applicable retention period.

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

Each request or complaint and each reply thereto is registered in the relevant case file in the OLAF case management system ("OCM").

OLAF responds directly to the requestor or complainant.

---

[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 45, 14.6.1962, p. 1385–1386.

[4] Article 90a of the Staff Regulations states: "Any person to whom these Staff Regulations apply may submit to the Director of OLAF a request within the meaning of Article 90(1), asking the Director to take a decision relating to him in connection with investigations by OLAF. Such person may also submit to the Director of OLAF a complaint within the meaning of Article 90(2) against an act adversely affecting him in connection with investigations by OLAF."

The purpose of the processing is to respond to requests and complaints submitted to the Director-General under Article 90a of the Staff Regulations.

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 90a of the Staff Regulations.

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 requestor or complainant, and any other person relevant to the request, the complaint or any follow up action following them, the personal data collected are the identification and contact information (name, address, e-mail, telephone, fax) of the requestor or complainant and/or personal data relating to persons whose names are mentioned in a request or a complaint, professional and case involvement data, and information related to the request or complaint. In some cases, these could include data which fall under Article 10 of Regulation (EU) 883/2013[5] where it is relevant to the request or the complaint.

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

Exceptionally, in duly justified cases, the requests, 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 requests and complaints 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. Where further action is taken by the requestor or 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 requestor's or complainant's legal counsel and court personnel, as necessary, may also have access to the personal data. Depending on the subject matter of a request or a complaint to the Director-General, the Supervisory Committee of OLAF[6] or the Controller of procedural guarantees[7] may also have access to the personal data, as necessary.

---

[5] OJ L 248, 18.9.2013, p. 1–22.

[6] 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.

[7] 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." In addition, Article 9b(10) of the Regulation provides that: "Without prejudice to the time limits provided for in Article 90 of the Staff Regulations, where a complaint has been lodged with the Director-General by an official or other servant of the Union in accordance with Article 90a of the Staff Regulations and

The information is disclosed on a need to know basis only, to persons responsible for dealing with the request or complaint or with a follow up action brought by the requestor or 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 requests and complaints under Article 90a of the Staff Regulations may be retained by OLAF for a maximum of 15 years after the response has been sent and are stored in the relevant OLAF's case file.

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) 2018/1962[8].

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.

---

the official or other servant has lodged a complaint with the Controller related to the same issue, the Director-General shall await the recommendation of the Controller before replying to the complaint."

[8] OJ L 315, 12.12.2018, p. 41–46.