

## PRIVACY NOTICE FOR REPORTING OF IRREGULARITIES

### 1. DESCRIPTION OF THE PROCESSING OPERATION

For the Protection of the EU Financial Interests (PIF), Union legislation lays down reporting requirements as regards the shared management funds. Member States and third country beneficiaries of EU funding under the asylum fund, pre-accession and neighbourhood policy instruments (henceforth the "Reporting Countries") must send regular reports of the detected irregularities and the amount concerned to the Commission (OLAF), and update relevant information concerning their administrative/judicial and financial procedures. In the context of the present notice and with specific reference to the IT tool used to facilitate the transfer of data (the Irregularity Management System, see point 3 below), these "reports" (term used in the current legal framework) may also be referred to as "requests".

Where relevant, feedback is given by OLAF to the Reporting Country that provided the information. Data is used to perform "risk analysis", and Reporting Countries are informed about the outcomes of the analyses performed via the Annual Report on the protection of the EU financial interests (so called "PIF Report"). In certain policy areas (mainly Cohesion and Agriculture policies), Member States are informed about general trends and patterns, modus operandi and detection methods emerging from these analyses in the framework of *ad hoc* meetings (e.g. COCOLAF meetings or annual coordination meetings with Audit Authorities).

Irregularities refer to the following budget sectors:

- a) Agriculture;
- b) European Structural and Investment Funds (Cohesion Policy Structural Funds and Cohesion Fund, Fisheries);
- c) Fund for European Aid to the Most Deprived;
- d) Asylum, Migration and Integration Fund and the instrument for financial support for police cooperation, preventing and combating crime, and crisis management; Fisheries;
- e) Pre-accession instruments;
- f) European Neighbourhood Instrument, in particular in relation to Cross-Border Cooperation (CBC) programmes.

The general purpose of the processing is to provide support in ascertaining the nature of irregular practices and the financial effects of irregularities, including suspected and established fraud, in recovering sums wrongly paid and in preventing irregularities. This exchange of information is also intended for the reinforcement of cooperation between the Reporting Countries and the Commission and the enhancement of risk analysis for fraud prevention and detection in the fields mentioned above.

The processing of your data will not be used for any automated decision making.

## **2. LEGAL BASIS FOR THE PROCESSING**

The legal basis for this processing is Article 5 paragraph 1 point (b) of Regulation (EU) 2018/1725.

The legal basis for this processing operation is:

- a) Agriculture: for cases related to the programming period 2014-2020 'Commission Delegated Regulation (EU) 2015/1971 of 8 July 2015 supplementing Regulation (EU) No 1306/2013 of the European Parliament and of the Council with specific provisions on the reporting of irregularities concerning the European Agricultural Guarantee Fund and the European Agricultural Fund for Rural Development and repealing Commission Regulation (EC) No 1848/2006'. For cases related to programming period 2007-2013 and previous periods 'Regulation (EC) N° 1848/2006 repealing Regulation (EEC) N° 595/91' and for cases related to previous periods, Council Regulation (EEC) No 595/91. Within the report of an irregularity, Member States' authorities may also indicate that the reported case is flagged under Regulation (EC) 1465/95 of 22 June 1995 on measures to be taken with regard to certain beneficiaries of operations financed by the Guarantee Section of the EAGGF.
- b) European Structural and Investment Funds (ESIF): for cases related to the programming period 2014-2020 'Commission Delegated Regulation (EU) 2015/1970 of 8 July 2015 supplementing Regulation (EU) No 1303/2013 of the European Parliament and of the Council with specific provisions on the reporting of irregularities concerning the European Regional Development Fund, the European Social Fund, the Cohesion Fund, and the European Maritime and Fisheries Fund'.
  - Structural Funds: for cases related to programming period 2000-2006 and previous periods 'Regulation (EC) N° 1681/94, amended by Regulation (EC) 2035/2005.
  - Cohesion Fund: for cases related to programming period 2000-2006 and previous periods Regulation (EC) 1831/94, amended by Regulation (EC) N° 2168/2005.
  - Cohesion Policy: for cases related to programming period 2000-2006, Regulation (EC) 1828/2006, amended by Regulation (EC) N° 846/2009.
  - Fishery: for cases related to programming period 2007-2013 'Regulation (EC) N° 498/2007, amended by Regulation (EU) N° 1249/2010'.
- c) Fund for European Aid to the Most Deprived: Commission Delegated Regulation (EU) 2015/1972 of 8 July 2015 supplementing Regulation (EU) No 223/2014 of the European Parliament and of the Council with specific provisions on the reporting of irregularities concerning the Fund for European Aid to the Most Deprived.
- d) AMIF/ISF: Commission Delegated Regulation (EU) 2015/1973 of 8 July 2015 supplementing Regulation (EU) No 514/2014 of the European Parliament and of the Council with specific provisions on the reporting of irregularities concerning the Asylum, Migration and Integration Fund and the instrument for financial support for police cooperation, preventing and combating crime, and crisis management.
- e) Pre-accession Assistance
  - for period before 2007: Financial Memoranda with Beneficiary Countries, all referring to Regulation (EC) N° 1681/94 and following amendments.
  - Instrument for Pre-Accession for period 2007-2013: Regulation (EC) N° 1085/2006 and Regulation (EC) N° 718/2007, amended by Regulation (EU) N° 80/2010, expressly referring to Regulation (EC) N° 1828/2006.

- Pre-accession Assistance (IPA II) for Pre-Accession for period 2014 onwards: Regulation (EU) N° 231/2014 and Regulation (EU) N° 718/2007.
- f) European Neighbourhood Policy: Commission Implementing Regulation (EU) No 897/2014 laying down specific provisions for the implementation of cross-border cooperation programmes financed under Regulation (EU) No 232/2014 of the European Parliament and the Council establishing a European Neighbourhood Instrument.

### **3. CATEGORIES OF PERSONAL DATA COLLECTED**

In order to carry out this processing operation, OLAF collects personal data concerning beneficiaries of EU financial contribution in the policy areas indicated above or other individuals or companies, who have committed or were involved in the commission of /or who are suspected of having committed or having been involved in irregularities, including suspected and established fraud. The categories of personal data received and processed under these rules are the following: personal identification data; data related to the administrative, judicial and financial procedures concerning the irregularities affecting EU contributions.

The sources from which your personal data originate are reports (referred to as "requests" in the IT system) received through the dedicated application within the Anti-Fraud Information System (AFIS DPO-81), the Irregularity Management System (IMS) or imported in the IMS through an excel file by authorised staff in OLAF, in the Commission and in the Reporting Countries. This information, together with the other data foreseen by the mentioned regulatory framework, are organised within IMS in (irregularity) "cases". Authorised staff (unless granted only observer status – *i.e.* read-only access) can perform actions such as amend, cancel, close, create, reopen, update or reject the cases. Every action is logged by the system.

Information can be extracted from IMS and analysed through IT tools. OLAF uses them for risk analysis purposes as described under paragraph 1.

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

OLAF staff responsible for carrying out this processing operation has access to your personal data. In addition, access is also provided on a need-to-know basis to staff of the Commission (Directorate Generals involved with the management of the funds involved in the irregularities) applying for it. Specific training is provided on request; training to Reporting Countries is organised on the "train the trainers" principle.

No personal data is passed to third parties, who are addressed to the Reporting Countries, as these retain "ownership" of the information which they have provided accordingly to the specific regulations quoted under paragraph 2.

The reporting workflow is structured according to the decisions of the Reporting Country, which can set the level of decentralisation of the task which is best fit-for-purpose in relation to its own administrative organisation. Therefore, the reporting workflow can be structured on several levels organised in a hierarchical order. Authorised staff in each level can only access the information it has submitted or which has been submitted by levels which are hierarchically dependent. Likewise, a Reporting Country can only access the information it has submitted, with the exception of cross-border programmes, for which access could be granted to authorised staff from other participating Countries.

## **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?**

Your personal data may be retained by OLAF for at least five years and up to three years after the closure of the irregularity and the closure of the corresponding programme / measure financed through EU funding.

At any moment the information provided can be updated by the Reporting Country. If a reported case is found not to be irregular, the Reporting Country can request its cancellation. Once approved by OLAF, this operation permanently removes from the system any information provided in respect to such case.

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

You have the right to request access to the personal data we hold regarding your personal data, rectification or erasure of the data, or restriction of their processing.

Any request to exercise one of those rights should be directed to the Controller ([OLAF-FMB-DATA-PROTECTION@ec.europa.eu](mailto: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.

Exceptions based on Regulation (EU) 2018/1725 may apply.

## **8. CONTACT DETAILS OF THE DATA PROTECTION OFFICER**

You may contact the Data Protection Officer of OLAF ([OLAF-FMB-DPO@ec.europa.eu](mailto: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 European Data Protection Supervisor ([edps@edps.europa.eu](mailto: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.