

June 2020

## PRIVACY NOTICE FOR VIRTUAL OPERATIONAL COORDINATION UNIT (V-OCU)

### 1. DESCRIPTION OF THE PROCESSING OPERATION

The Virtual Operational Coordination Unit (V-OCU) is an IT-application and filing system under the Anti-Fraud Information System (AFIS), developed by the European Anti-Fraud Office (OLAF), to assist the competent authorities<sup>1</sup> of the Member States and OLAF in their fight against customs fraud and to facilitate the exchange of information and intelligence between competent authorities and OLAF. The exchanges of information take place by means of an AFIS application and are made with the help of templates, which are designed to cover a specific type of information regarding a particular area of movement of goods and/or means of transport.

The purpose of the processing is to enable the competent authorities in the Member States to analyse and to compare data and to communicate and to share anti-fraud information and intelligence among themselves and with the Commission in the framework of the amended Regulation 515/97 ("Mutual Assistance Regulation") in order to enhance the effectiveness of the mutual cooperation with the aim of preventing, investigating and prosecuting infringements of customs or agricultural legislation.

The controller of the processing operation is the European Commission, European Anti-Fraud Office (OLAF), Unit B.1 – Customs, Trade and Tobacco Anti-Fraud Strategy.

Personal data recorded in V-OCU will not be used for automated individual decision-making, including profiling<sup>2</sup>. Data subjects will not be subjected to a decision solely based on automated processing, including profiling, which produces legal effects concerning him or her or similarly affects him or her.

### 2. LEGAL BASIS FOR THE PROCESSING

The legal bases for this processing are:

- Regulation 2018/1725, the EU Data Protection Regulation ("EUDPR"), in particular Article 4 (1) (a) and (b) on the lawfulness of processing,
- Regulation 515/97, as amended, the "Mutual Assistance Regulation", in particular Article 18d,
- Regulation 883/2013<sup>3</sup>, as amended,
- Treaty on the Functioning of the European Union (TFEU), Article 325 (5), reporting requirement.

<sup>1</sup> The term 'Competent authorities' is defined in Article 2(2) of Council Regulation (EC) 515/97 of 13 March 1997 on mutual assistance between the administrative authorities of the Member States and cooperation between the latter and the Commission to ensure the correct application of the law on customs and agricultural matters, OJ L 082, 22 March 1997, as amended.

<sup>2</sup> As defined in Article 24 of Regulation (EU) 2018/1725 on the protection of natural persons with regard to the processing of personal data by the Union Institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) 45/2001 and Decision No. 1247/2002/EC, OJ L 295 of 21 November 2018, p. 39, ("EUDPR").

<sup>3</sup> Regulation (EU, Euratom) No. 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No. 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No. 1074/1999, OJ L 248 of 18 September 2013.

### 3. CATEGORIES OF PERSONAL DATA COLLECTED

The following categories of personal data, related to natural persons, are used in the exchanges of information and intelligence and are recorded in V-OCU:

1. Involvement,
2. Identification:
  - Last name,
  - First name,
  - Birth date,
  - Gender,
  - Nationality,
  - Passenger number, and
  - Identification document.

The following categories of personal data related to the legal persons whose name may lead to the identity of a natural person from the exchanges of information and intelligence are recorded in V-OCU:

- Name,
- Country,
- Address,
- Phone/Mobile,
- Fax/E-mail, and
- Registration info.

Additionally, limited personal data are stored about the users of V-OCU (authorised staff of OLAF, Member States and third country designated competent authorities):

- First name, and
- Last name.

The provision of personal data is mandatory to meet the requirements under Articles 7, 17 and 18 of the Mutual Assistance Regulation. A failure to provide the data may lead the Commission to default on its obligations under the Mutual Assistance Regulation.

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

Information in the V-OCU is only **accessible** to authorized staff in:

- the competent authorities of the Member States,
- the European Commission and the European Anti-Fraud Office, and,
- the competent authorities of the third countries.

The information in the V-OCU may be **disclosed** to authorized staff within:

- the competent authorities of the Member States,
- the European Commission and the European Anti-Fraud Office, and,
- the competent authorities of the third countries that concluded mutual assistance arrangements with the Commission.

Authorized staff are those staff members within the organisations mentioned above that are tasked with detecting, investigating and prosecuting infringements of customs or agricultural legislation.

Personal data recorded in V-OCU can be transferred outside the EU to the officials of competent third country authorities under Mutual Assistance Agreements.

## **5. HOW DO WE PROTECT AND SAFEGUARD YOUR INFORMATION?**

In order to protect your personal data, technical and organisational measures have been put in place. Technical measures include appropriate actions to ensure online security as well as measures to address risks of data loss, alteration of data or unauthorised access, taking into consideration the risks presented by the processing and the nature of the data that are processed. Organisational measures include actions restricting data access to authorised persons who have 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 till the post-operational phase. After the post-operational phase, an operation will be automatically anonymised and all personal data are automatically removed from the application. Other data are kept only for the time necessary to achieve the purpose(s) for which they were introduced and may not be stored for more than five years with an additional period of two years, provided this extension is duly justified.

## **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. You have the right to object to the processing of your data.

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.

The controller may apply exceptions in accordance with the Regulation 2018/1725 and, where applicable, restrictions based on Article 25 thereof, in accordance with the relevant Commission Decisions<sup>4</sup>.

## **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.

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<sup>4</sup> Commission decisions based on Article 25 of the EUDPR will be published in the Official Journal as well as on the internet pages of OLAF.