

Notification to the Data Protection Officer under Article 25 of the Rules on Data Protection (Decision 235/16/COL) ('the Rules')

Changes affecting the information contained in the notification must be notified promptly to the Data Protection Officer, see Article 25(3) of the Rules.

Date of submission: 18 December 2017

1. Name of the processing

Complaints Handling

2. Description

Managing complaints to the EFTA Surveillance Authority (“ESA”) about EEA EFTA States' (alleged) breaches of EEA law. Enquiries are handled in accordance with the notification on “*Handling enquiries from the public and journalists*”.

Complainants may submit complaints by post or email, and ESA informs them of the developments in their complaint cases. ESA will ask the complainants to submit the complaint form in two separate parts and constitute two different pdfs, one (part 1/2) containing personal data and another one (part 2/2) containing the alleged breach of EEA law. If the abovementioned two parts are not completed, the complaint/enquiry will be processed as a “*Handling enquiries from the public and journalists*”.

Upon the closure of the complaint case, part 1/2 of the complaint form, containing personal data, will be deleted, along with.

The GoPro database is the digital archive for complaints that people and legal entities send ESA (see separate *GoPro* notification).

Complainants must provide ESA with their names, and may also reveal their nationality, and, depending on the nature of their complaint they might also provide information on their family/gender/health/marital status/employment status. Exceptionally complaints may provide data relating to health or religion, suspected criminal offences or convictions, and similar. Such data falls within the categories mentioned in Article 27(2)(a). The complaints processing in the GoPro database does not aim to process data falling within any of the categories mentioned in Article 27(2). However, ESA cannot stop complainants from submitting such data in support of their complaints. Yet, ESA does not require such information. ESA merely asks the complainant to submit sufficient information to establish, or to be pointed in a direction where it will be in a position to establish, whether or not an EEA EFTA State is in breach of EEA law.

3. Automated / Manual operations

- sending a letter of acknowledgement to complainant (with case number, responsible case handler and privacy statement (see applicable privacy statement));

- creation of file in GoPro by import of registered document from registry email account/scanned from post (import of pdf files outlining firstly, the complainant's contact details (in part 1) and, secondly (in part 2 the substance of the complaint);
- attribution of file to concerned case handler;
- potential data transfer from GoPro to SOLVIT, provided that the complainant agrees (in this case, the European Commission's notification on SOLVIT would apply, and what is typically enclosed is the identity of complainant, the EEA States concerned, subject);
- potential data transfer from GoPro to the European Commission;
- data transfer from GoPro to the relevant European Supervisory Authority (EBA, EIOPA, ESMA) provided that the complaint concerns alleged breaches of EEA law pursuant to Article 17 of Regulations (EU) No 1093/2010, 1094/2010 and 1095/2010 as incorporated into the EEA Agreement (the European Supervisory Authorities are subject to Regulation (EC) No 45/2001;
- summary of the substance of the complaint (relevant information contained in part 2/2 of the complaint form) to the concerned EEA EFTA State
- listing all open complaints cases for the purposes of ensuring due progress in the complaint cases, and in order to lead the Internal Market Affairs Directorate;
- attachment of relevant documentation sent by the complainant or by ESA during the examination of the file;
- notification of decision concerning alleged breach of EEA law to complainant (i.e. whether the case is to be closed or to be pursued further in the context of infringement proceedings)
- potential data transfer to the EFTA Court, pursuant to Article 7 of Decision 235/16/COL

4. Sub-contractors

N/A

5. Storage

The Authority's database (GoPro), and sometimes information is temporarily stored in Microsoft Outlook (see Outlook notification) for as long as necessary in order to follow up on enquiries.

6. Comments

The processing operations are undertaken with a view to assess a potential breach of EEA law, and in order to follow up such alleged breaches and keep data subjects which has brought such to the attention of the Authority, informed. Therefore, no notification under Article 27 should be necessary.

Purpose & legal basis

7. Purposes

To ensure that complaints from people and legal entities are dealt with duly, to acknowledge them and manage further correspondence with such as the case progresses (or it is decided that the case is to be closed), to manage the handling of complaints received by the ESA which are not enquiries. Enquiries will be processed as a "*Handling enquiries from the public and journalists*".

8. Legal basis / Lawfulness

Article 109 EEA requires the ESA to monitor the fulfilment of obligations under the EEA Agreement by the EEA EFTA States. The receipt of complaints are a very useful tool for the ESA, enabling it to receive information about potential breaches of EEA law.

The GoPro database is a necessary intermediary for institutional memory/the proper archiving of complaints (see specific notification on GoPro).

Article 5 a) applies: this treatment is necessary for the performance of a task carried out in the public interest on the basis of the EEA Agreement or legal acts incorporated into the EEA Agreement.

See point 2 as concerns Article 27 compliance.

Data subjects / fields

9. Data subjects

Data subjects will typically be EEA citizens or legal persons resident or established in the EEA, but any person or legal entity has the right to complain.

10. Data fields

The "data fields" in part 1/2 of the complaint form containing personal data relating to the complainant are: family name, first name, nationality, address, the complainant's representative (if applicable), the telephone and fax numbers and the email address. The full text of the complaint may however contain other data of a very diverse nature supplied by the complainant (form ii).

Rights of D.S.

11. Information

Data subjects have the right of access to personal data being processed by the EFTA Surveillance Authority, and the rights set out under Section 5 of College Decision No 235/16/COL (including the rectification, blocking or erasure of those data, as well as the right of notification and the right to object). A data subject request form can be found at www.eftasurv.int/data-protection .

12. Procedure to grant rights

The Privacy statement is sent as an annex to the letter of acknowledgement to the Data Subject.

13. Retention

ESA keeps the details of complaints indefinitely for historical and information purposes. The deletion of personal data allowing a person to be identified (see point 10) will be initiated when the complaint case is closed and there is no longer any need for the complainant to be kept updated on the developments of the case. Complaint cases are mostly closed within 5 years, but are exceptionally kept open for longer, in which case the personal data is also kept longer for the purposes of keeping the complainant informed of the progress of the case. When the complaint case has been closed, and after the complainant has been informed thereof, the deletion of part 1/2 of the complaint form or similar, allowing the complainant to be identified, will be initiated, along with any correspondence addressed to the complainant regarding the status/case handling progress of the case.

Part 1/2 of the complaint form will not be erased in respect of complainants which are legal entities.

14. Time limit

On the request of the complainant or another data subject included in the complaint, the data provided in part 1/2 of the complaint form, containing personal data, would be deleted.

15. Historical purposes

Processing for statistical purposes is performed exclusively for the purposes of monitoring case handlers' workload, to improve the quality/swiftness of the service provided to complainants, and to provide (anonymised) statistical data to the EEA States, for the purposes of compiling annual reports with anonymised data.

Recipients

16. Recipients

The information saved in the GoPro database is only accessible to the Authority's case handlers and IT support from GoPro. Within the Authority, the access to the personal information in part 1/2 of the complaint form is only granted to the case handler(s) in the Internal Market Affairs Directorate, Internal Market Affairs Directorate management and IT support. Where necessary, data pertaining to your complaint will be transferred to the EFTA States, the EFTA Court and/or EU institutions, pursuant to Articles 7-9 of Decision 235/16/COL. See point 6.

17. Transfer

None