

General information pursuant to Section 55 of the Federal Data Protection Act (Bundesdatenschutzgesetz - BDSG) regarding data processing by customs authorities in the context of criminal offences and infringements of rules of law

(Last updated: December 2018)

Preface

Among the functions of Customs are the prevention, detection, investigation and prosecution of certain offences and infringements of rules of law including the enforcement of the fines imposed by the customs authorities. In order to fulfil this role, the customs services are entitled to process personal data.

The information detailed in this letter concerns:

- Controls under aspects of customs and movement of cash law
- Procedures concerning tax-related criminal offences and infringements of rules of law
- Procedures concerning criminal offences and infringements in non-tax relevant areas (excluding the Financial Monitoring Unit to Control Unreported or Illicit Employment)

The information contained herein only concerns the processing of personal data by the customs authorities (main customs offices, customs investigation offices, the German Customs Criminological Office, the Federal Treasury and its branches, and the General Customs Directorate). Data processing by the tax administration (tax offices, regional finance directorates, state offices for finance, Federal Central Tax Office) is not addressed.

“Personal data” means any information that directly relates to an identified or identifiable natural person. When financial authorities “process” personal data, it means that they collect, save, apply, transfer, make available for retrieval, edit or delete data.

In the following we will provide information about the kind of personal data that we collect, who we collect it from, and what we do with this data. In addition, we will inform you about your privacy rights in relation to data protection and advise you on whom to contact if you have any questions or complaints.

1 Who is “we”?

“We” refers to the customs authorities which you may deal with in the shape of customs offices, main customs offices, customs investigation offices, the Customs Criminological Office (ZKA), the Federal Treasury and the General Customs Directorate.

2 Who will answer your questions?

Any questions on data protection issues can be directed to the **manager of the customs service responsible** for the matter concerning you.

As a rule, the **main customs offices**, its related customs offices and the branches of the federal treasury (when payment transactions are necessitated) are responsible for the processing of personal data. In certain cases, the **General Customs Directorate** or any of the customs investigation authorities (**German Customs Investigation Service** or **German Customs Criminological Office**) may also process the personal data of undertakings and citizens.

You may also directly contact the **Data Protection Supervisor** of the specific customs authority which is conducting the procedure in your respect.

The relevant **contact information** is accessible online at www.zoll.de under the heading "Data Privacy".

The General Customs Directorship's Data Protection Commissioner can be contacted at:

Datenschutzbeauftragte/r
bei der Generalzolldirektion und beim Zollkriminalamt
Václav-Havel-Platz 6
53121 Bonn
Phone: 0228 303-12201
Email: datenschutz.gzd@zoll.bund.de

3 The purposes of processing

Among the custom administration's responsibilities is the prevention, investigation, prosecution and sanctioning of certain criminal offences and infringements of rules of law, which may also entail the enforcement of fines imposed by the customs authorities. This information leaflet refers to the following scopes:

- Customs checks at borders and within the domestic territory with the aim of detecting infringements of customs laws, the failure to declare cash, violations of foreign trade restrictions or bans and restrictions imposed on the cross-border trade in goods
- Procedures concerning criminal and administrative tax offences (such as the fraud in the field of customs duties and excise duties)
- Procedures concerning criminal and administrative offences committed in non-tax fields, particularly those covered by legislation on foreign trade, market regulation, nature protection, trade in armaments and the movement of cash across borders (such as exporting goods in contravention of an export ban, failing to declare protected plant and animal species, the failure to declare cash, or money laundering)
- Security measures in the field of Customs and foreign trade legislation

To implement their tasks the customs authorities are entitled to process personal data falling in their area of competence, to the extent and for the duration necessary.

On principle, personal data collected for any of the aforementioned purposes will continue to be processed for the exact same purpose only. This restriction also applies to the forwarding of information for wider purposes, e.g. to the federal and regional police authorities, insofar as such disclosure is a necessary and proportionate measure related to the prevention, investigation, detection, prosecution and sanctioning of crimes and offences falling into their areas of competence (sentence 1 of Section 49 BDSG).

Processing for other purposes is permitted where legal provisions so require (sentence 2 of Section 49 BDSG). For example, personal data may be required for conducting a taxation procedure in connection with the tax fraud or infringement detected. Personal data collected by customs authorities will also be forwarded to other authorities where the information is needed in an administrative procedure (to the immigration authorities, for example).

4 The rights of data subjects and contact information

4.1 Right of access (Section 57 BDSG)

Upon request the customs authority which determines the purposes and means of the processing of personal data (the controlling customs authority) will provide information whether the authority concerned is processing personal data of the person who lodged the request. Where personal data are processed, the data subject is entitled to receive certain additional information in this respect.

4.2 Right of correction, erasure and restriction of processing (Section 58 BDSG, Section 489 Penal Procedure Code, StPO) (§ 58 BDSG, § 489 StPO)

Upon individual request the controlling customs authority shall forthwith correct any incorrect data of the person who lodged the request. This obligation does not apply however where the contents of a testimony or judgement are concerned. On certain conditions there may be an entitlement to immediate erasure of the requestor's personal data. In place of the correction or erasure of personal data, a decision may be made to restrict their processing. Usually the requestor will be informed of any such decision. Under certain circumstances the data subject also has the right to demand that any incomplete personal data concerning him or her be completed.

4.3 Procedures ensuring the exercise of the rights of data subjects to access, correction, erasure and restriction of processing, as well as contact information

Your request for information and access, correction or erasure should be directed to the manager of the customs department responsible for the matter concerning you. Processing of personal data by customs usually takes place at the main customs offices, the customs investigation offices and the German Customs Criminological Office. All the relevant contact details of the above customs offices can be found in the directory of customs departments published online at www.zoll.de. Should there have been prior postal correspondence with a main customs office, customs investigation office or the Customs Criminological Office, you would find the relevant contact details on the letterhead of the official communication.

The requestor must prove his or her identity beyond doubt to the controlling customs office. Usually, reliable proof is furnished by presenting the identity card or, alternatively, a copy of the identity document. Minors and individuals without legal capacity are subject to the specific legal instruments regulating the right of representation. The request for information and access, for correction or erasure of personal data should also include relevant details that enable the main customs office, customs investigation office or the Customs Criminological Office to locate the data (e. g., where known, the file reference number communicated by the customs service – usually stated in the subject or reference line ("Betr.: Az...") of the official letter).

There may be circumstances, however, where you will not be granted access to processed data or where the information you receive can be restricted. This will be the case, in particular, if access or information would jeopardise the accomplishment of the tasks entrusted to the customs administration for the prevention, investigation, prosecution and sanctioning of criminal offences and infringements of rules of law, including the enforcement of sanctions and fines and the protection from and defence of threats to public security and public policy (Section 57 (4) BDSG). Where access is denied, or information restricted, the data subject may exercise his or her right by applying to the Federal Commissioner for Data Protection and Freedom of Information (Section 57 (7) BDSG). The complaint may also be lodged where the authorities fail to correct or erase personal data (Section 58 (6) and (7) BDSG).

The contact details of the Federal Commissioner for Data Protection and Freedom of Information are given in section 4.4 below.

4.4 Right to appeal to the Federal Commissioner for Data Protection and Freedom of Information (Section 60 BDSG) and her contact details:

In addition, data subjects are entitled – irrespective of any other remedies that might apply – to lodge a complaint with Federal Commissioner for Data Protection and Freedom of Information if they deem any of their rights infringed by the customs authorities' processing of personal data (Section 60 BDSG).

Contact details of the Federal Commissioner for Data Protection and Freedom of Information:

Der/Die Bundesbeauftragte für den Datenschutz und die Informationsfreiheit
Graurheindorfer Str. 153
53117 Bonn
Phone: +49 (0)228-997799-0
Fax: +49 (0)228-997799-550
Email: poststelle@bfdi.bund.de