

Data Privacy Notice for Messer SE & Co. KGaA for the company's internal Whistleblowing System

-Status March 2023-

Please note that this Data Privacy Notice only applies to the data you enter for the Report via the "Global Messer Whistleblowing System". For other data and processing the Privacy Statement of NAVEX applies (See below in the section "Scope of the application area" for more details).

Introduction

Careful handling of personal data is very important to Messer SE & Co. KGaA. This is particularly also true for data in conjunction with reports made to the company's internal whistleblowing system. That applies to the hotline as well as to the web-based application and the e-mail address "compliance@messergroup.com". The following information explains how we handle your personal data in the context of reports to the company's internal whistleblowing system.

Personal data

The term "personal data" refers to all information that can be linked to you as an individual, for instance your name, address, date of birth, email addresses or telephone numbers. This also includes information that is linked only indirectly to you, for instance by being assigned to an identifier such as a name, ID number, location data or an online identifier. A person is also considered identifiable, if he or she can be identified using one or more special characteristics that express the individual's physical, physiological, genetic, mental, economic, cultural or social identity.

1 Scope of the application area; company responsible for your data (data controller)

Messer North America, Inc. and Messer SE & Co. KGaA are the data controllers responsible for processing your data, if you chose that the information you submit concern USA, US Virgin Islands, Canada, Brazil, Colombia, Puerto Rico and Chile.

Messer SE & Co. KGaA is the data controller responsible for processing your data, if you chose that the information you submit concern any other region. Hereinafter the term "**Messer**" and "we" do only refer to Messer SE & Co. KGaA.

For the avoidance of doubt: Only the initial data controllership for the first assessment of the submitted information is determined here. Depending on the facts and details of the specific whistleblowing case, other Messer entities might become (also) data controller and receive data during an investigation.

For other cases of personal data processing when your local Entity from the Messer Group is controller, the privacy notices of the respective local Entity from the Messer group apply.

2 Contact information for the data controller and the Data Protection Officer

a) Contact information for Messer SE & Co. KGaA

Messer SE & Co. KGaA
- Management -
Messer-Platz 1
65812 Bad Soden
Germany
Phone: +49 6196 7760-0
Email: compliance@messergroup.com

b) Contact information for the Data Protection Officer of Messer SE & Co. KGaA

The contact information for Messer SE & Co. KGaA's Data Protection Officer is below:

Messer SE & Co. KGaA
- Data Protection Officer -
Messer-Platz 1
65812 Bad Soden
Germany
Phone: +49 6196 7760-139
Email: datenschutz.mg@messergroup.com

3 What data do Messer SE & Co. KGaA process?

Messer will process all personal data that you insert into a report. Within the normal scope of reports that are entered and processed in the company's internal whistleblowing system, Messer SE & Co. KGaA processes in particular the following types of personal information:

- information for personally identifying the whistleblower, for example first and last name, telephone number and email address (except it was chosen to submit an anonymize report);
- employment status with Messer SE & Co. KGaA;

- information about people (such as first and last name, functional description, contact information) that was provided as part of the report;
- information about the reported incident that could permit conclusions to be drawn about an individual.

4 What do Messer SE & Co. KGaA do with the data?

We process personal data for the purpose of reviewing the reports, to prevent violations of applicable law or of company guidelines and to sanction such violations.

5 Information about the legal basis for the specified processes

5.1 We will process the personal data that you submit within a report on the basis of Art. 6 Sub-Sec 1 lt. c GDPR. According to this legal basis the processing of personal data is allowed, if this is necessary for the compliance with law. We are legally obliged to provide a whistleblowing solution according to the EU Whistleblower Protection Directive (RL 2019/1937) and the German Whistleblower Protection Directive (“Hinweisgeberschutzgesetz”).

5.2 Information about employment status, information about persons that is provided as part of the report, and information about the reported incident shall be processed on the basis of Art. 6 Sub-Sec. 1 lt. f GDPR. According to this, processing is legal if it is necessary in order to protect the legitimate interests of the controller or a third party, as long as this is not outweighed by interests or basic rights of the affected person that require personal data to be protected. Our legitimate interest – for each individual case to be reviewed – consists of preventing violations of applicable law or of company guidelines (e.g. fraud or corruption as well as other criminal offenses) and/or discovering such violations. Whether the affected person’s interests or basic rights and basic freedoms oppose such data processing shall be determined on a case-by-case basis – among other things, in terms of the violation. Furthermore, we have a legitimate interest in transmitting personal data to affected companies within the Messer Group.

5.3 We can also process information about employment status, information about people named in the report, and information about the reported incident according to the local statutory provisions. In some countries, for instance, employees’ personal data can be processed in order to discover criminal offenses if documented factual evidence justifies a suspicion that the affected person committed a crime within the employment relationship, if processing is necessary in order to discover this, and if it is not outweighed by the employee’s protection-worthy interest in preventing processing, particularly as long as the type and scope are not unreasonable with regard to the circumstances.

6 Your rights

- 6.1** Upon request, you have the **right to obtain information** about your saved personal data (**Art. 15 GDPR**).
- 6.2** You also have the right to request rectification of incorrect personal data (**Art. 16 GDPR**), the **right to request restriction of extensively processed personal data (Art. 18 GDPR)**, and the **right to erasure (Art. 17 GDPR)** of illegally processed personal data or data that is retained for too long (as long as there is no legal obligation to retain data, and as long as no other grounds apply as per Art. 17 Sec. 3 GDPR). You (or a third party appointed by you) shall receive the data in a structured, commonly used and machine-readable format (**right to data portability as per Art. 20 GDPR**).
- 6.3** You also have the right to **object (Art. 21 GDPR)** to the process described in Point 5.2.
- 6.4** You can exercise your rights by sending an email to the following email address: datenschutz.mg@messergroup.com.
- 6.5** You also have the right to lodge a complaint with a data protection supervisory authority regarding our processing of your personal data. In Germany the Hessian Commissioner for Data Protection and Freedom of Information (<https://datenschutz.hessen.de/>, email: poststelle@datenschutz.hessen.de) is the competent Authority for Messer SE & Co. KGaA. Nevertheless, you have the right to lodge a complaint to any European data protection authority (including your local data protection authority).

7 General information about recipients and recipient categories

- 7.1** Personal data provided as part of a report shall be processed by NAVEX Global on behalf and according to the instructions of Messer SE & Co. KGaA.
- 7.2** According to the area of responsibility for the report, data is shared with the corresponding responsible departments (Human Resources, Finance Department, Legal Department, Internal Audit, Corporate, Compliance, Management, external consultants, etc.).
- 7.3** In some circumstances, we will/are also required to share personal data with third parties, such as affected companies within the Messer Group, auditors/attorneys, state emergency services and/or law enforcement authorities, where this is necessary for the investigation and/or the sanction.

8 General information about the retention period

Generally, data is retained until the investigations are completed. As a rule, the data from a report is deleted 2 months after the investigations are fully concluded, unless the initiation of further legal steps requires its further retention (e.g. the initiation of criminal or disciplinary proceedings).

9 Processing of your data in a third country

- 9.1** Data are transmitted to Companies within Messer Group in countries outside the European Union or outside the European Economic Area (EEA) (third countries) only if there is a legal basis for this, such as in particular the execution of a contract requires this or to fulfill legal requirements and if the requirements of Art. 44 seq. GDPR are fulfilled.
- 9.2** The processing of your data in a third country may also take place in connection with the involvement of service providers within the framework of order processing (data processing agreement according to Art. 28 GDPR).
- 9.3** If no decision has been issued by the EU Commission regarding the presence of an appropriate level of data protection for the respective country, we warrant that your rights and freedoms will be reasonably protected and guaranteed in accordance with EU data protection requirements through contractual agreements to this effect. We will provide you with detailed information and a copy on request.

10 Information as per Art. 13 Sec. 2 lt. e GDPR

The provision of data via a whistleblowing report is neither contractually required nor necessary in order to conclude a contract. In some circumstances, according to the individual case, there may be statutory obligations to provide Messer SE & Co. KGaA with a report. However, the data must be processed in order to ensure meaningful processing and investigation of the reports.