

(To be filled out in the EDPS' office)

REGISTER NUMBER:

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NOTIFICATION FOR PRIOR CHECKING

DATE OF SUBMISSION:

CASE NUMBER:

INSTITUTION:

LEGAL BASIS: ARTICLE 27-5 OF THE REGULATION CE N° 45/2001⁽¹⁾

INFORMATION TO BE GIVEN²

1/ NAME AND ADDRESS OF THE CONTROLLER

FOR ORGANISAITONAL REASONS, THE CONTROLLER SHOULD BE **AN IDENTIFIED AND EASILY ACCESSIBLE PERSON** TO ALL DATA SUBJECTS IN ORDER TO ENSURE THAT ALL PRINCIPLES OF THE REGULATION ARE COMPLIED WITH (I.E HEAD OF UNIT, DEPARTMENT ETC).

OF COURSE, FROM A LEGAL POINT OF YOU, THE **UTLIMATE RESPONSIBILITY** OF A PROCESSING LIES UPON THE INSTITUTION.

2/ ORGANISATIONAL PARTS OF THE INSTITUTION OR BODY ENTRUSTED WITH THE PROCESSING OF PERSONAL DATA

¹ OJ L 8, 12.01.2001.

² **Please attach all necessary backup documents**

SPECIFIC NAME OF THE UNIT/DEPARTMENT RESPONSIBLE IN COLLECTING, PROCESSING, STORING, TRANSFERRING THE DATA RELATED TO THE PROCESSING

- IS THERE A PROCESSOR?
- COPY OF THE CONTRACT/AGREEMENT WITH THE INSTITUTION
- WHICH DATA DOES THE PROCESSOR RECEIVE AND FOR WHICH PURPOSE?
- WHICH ARE ITS TASKS?
- ARE CONFIDENTIALITY AND SECURITY MEASURES AND DATA PROTECTION CLAUSES INCLUDED IN THE CONTRACT? SEE ART.23 REQUIREMENTS

3/ NAME OF THE PROCESSING

short and sexy!

4/ PURPOSE OR PURPOSES OF THE PROCESSING

SPECIFIED, EXPLICIT AND LEGITIMATE PURPOSE OF SETTING UP THE PROCESSING OPERATION (ART.4(1)(B) REG.45/2001)

5/ DESCRIPTION OF THE CATEGORY OR CATEGORIES OF DATA SUBJECTS

WHOSE DATA ARE YOU PROCESSING?

ANY INDIVIDUAL INTERESTED IN PURCHASING IS A DATA SUBJECT?

DATA SUBJECTS CAN BE PERSONS WITHIN THE INSTITUTIONS, OUTSIDE THE INSTITUTIONS, FROM E.U MEMBER STATES, FROM THIRD COUNTRIES ...

6/ DESCRIPTION OF THE DATA OR CATEGORIES OF DATA (*including, if applicable, special categories of data (Article 10) and/or origin of data*).

Quality Principle (Art.4(1)(c)): Personal data should be "adequate, relevant and not excessive to the purposes for which they are collected and/or further processed".

- *copy of the identity card (name, surname, address)*
- *financial account statement*

Health related data (sensitive data under Art.10(1)), see (Art.10(2)(a), (b) and 10(3))

- *medical certificate (no medical diagnosis to be indicated)*

Processing of data relating to offences, criminal convictions, security measures (see Art.10(5))

- *valid security clearance*
- *valid certificate of good conduct*

ARE ALL RELEVANT TO THE PURPOSE OF THE PROCESSING?

**WHAT HAPPENS NEXT?WHAT IS THE PROCEDURE ADOPTED?
- ANY CRITERIA UPON WHICH A DECISION IS TAKEN?**

- IS S.O PRODUCING A REPORT/NOTE?IF YES, WHO?WHAT DOES THIS REPORT CONTAIN?

...

7/ INFORMATION TO BE GIVEN TO DATA SUBJECTS

- THE CONTROLLER MUST PROVIDE ALL DATA SUBJECTS WITH ALL NECESSARY INFORMATION ABOUT THE PROCESSING OF THEIR DATA BEFORE THE PROCESSING IS LAUNCHED.

- THIS INFORMATION CAN BE LISTED IN A PRIVACY STATEMENT WHICH SHOULD BE EASILY ACCESSIBLE.

- ART.11 REG.45/2001:A LIST OF INFORMATION WHEN DATA WERE OBTAINED DIRECTLY FROM THE DATA SUBJECT

- ART.12 REG.45/2001: SAME LIST WITH ADDITIONAL INFORMATION ON THE ORIGIN OF THE DATA, WHEN DATA WERE NOT OBTAINED FROM THE DATA SUBJECT

FOR EX: THE REPORT/NOTE FOR THE FINAL DECISION, THESE ARE DATA PROCESSED BY CASE HANDLERS/HEADS WITHIN EDA OR FROM OTHER INSTITUTIONS IN CASE THERE IS A TRANSFER

8/ PROCEDURES TO GRANT RIGHTS OF DATA SUBJECTS

(Rights of access, to rectify, to block, to erase, to object)

Accuracy principle (Art.4(1)(d)): Personal data must be "accurate and, where necessary, kept up to date: every reasonable step must be taken to ensure that data which are inaccurate or incomplete, having regard to the purposes for which they were collected or for which they are further processed, are erased or rectified"

The controller should put in place adequate mechanisms which ensure that all data collected and processed are accurate.

For ex. when data subjects provide themselves the data required and the possibility of data subjects to be able to exercise their rights at any time are adequate mechanism to guarantee accuracy.

These possibilities of access, rectification etc should be clearly indicated and accessible to the data subjects.

9/ AUTOMATED / MANUAL PROCESSING OPERATION

Art.2 Reg.45/2001 "This Regulation shall apply to the processing of personal data wholly or partly by automatic means and to the processing ...of personal data which form part of a filing system or are intended to form part of a filing system"

It is a web-IT tool, hence **automatic processing**.

However the collection of security clearance, good conduct, medical certificates in **paper format form part of a filing system**, it is hence **both automatic and manual processing operation**

10/ STORAGE MEDIA OF DATA

HOW AND WHERE DO YOU STORE ALL THE DATA COLLECTED? (IN A DATABASE, WORD, EXCEL, FILES IN LOCKED CUPBOARDS....)

11/ LEGAL BASIS AND LAWFULNESS OF THE PROCESSING OPERATION

FOR A PROCESSING TO BE LAWFUL, THERE SHOULD BE A SPECIFIC LEGAL BASIS WHICH AUTHORISES THE PROCESSING.

THE LEGAL BASIS CAN BE BASED ON:

- SPECIFIC PROVISION(S) IN THE STAFF REGULATIONS,
- DECISIONS ADOPTED BY THE INSTITUTION,
- REGULATIONS

HAS THE DATA SUBJECT UNAMBIGUOUSLY GIVEN HIS CONSENT?

CONSENT CANNOT BE CONSIDERED AS THE ONLY LEGAL BASIS, BUT WHERE CONSENT IS SOUGHT, IT SHOULD BE FREELY GIVEN, SPECIFIC AND INFORMED (ART.2(H) REG.45/2001)

12/ THE RECIPIENTS OR CATEGORIES OF RECIPIENT TO WHOM THE DATA MIGHT BE DISCLOSED

Internal recipients: Art.7 Reg.45/2001 - Transfer of personal data **within or between** E.U institutions or bodies

(**within:** case handlers of departments/units/services of an institution and **between:** from the institution to transfers data to other institutions/bodies, medical service of the Commission, PMO, OLAF, Ombudsman, Court of Auditors, EDPS)

Art.7(3) Reg.45/2001- Case handlers should sign specific confidentiality declarations before the processing that **they shall process personal data for the purposes for which they were transmitted.**

This declaration can also make reference and combine the requirement of **Art.10(3)** when health related data are processed

External recipients: Art.8 Reg.45/2001- Transfer of personal data to recipients, other than E.U institutions, **subject to Directive 95/46/EC**

These are usually **external contractors** that your agency has outsourced specific tasks and are **subject to the law of a Member State** as well as **national authorities** (Courts, police etc.)

The key element before the institution transfers any data to any recipient is to establish

- **the necessity of such transfer** and
- **the competence of each recipient**

13/ RETENTION POLICY OF (CATEGORIES OF) PERSONAL DATA

ART.4(1)(E) "PERSONAL DATA SHOULD BE KEPT IN A FORM WHICH PERMITS IDENTIFICATION OF DATA SUBJECTS FOR NO LONGER THAN IS NECESSARY FOR THE PURPOSES FOR WHICH THE DATA WERE COLLECTED OR FURTHER PROCESSED"

THE INSTITUTION SHOULD SET OUT **NECESSARY, REASONABLE AND PROPORTIONATE RETENTION PERIODS** FOR EACH CATEGORY OF DATA IN LIGHT OF THE **PURPOSE** OF THEIR COLLECTION, HAVING IN MIND THE **PRACTICAL NEED** OF KEEPING THEM, **FINANCIAL REGULATION'S** REQUIREMENTS (5 YRS), **OTHER JUSTIFIED BASIS.**

13 A/ TIME LIMIT TO BLOCK/ERASE ON JUSTIFIED LEGITIMATE REQUEST FROM THE DATA SUBJECTS

INSTITUTION SHOULD **ESTABLISH A REASONABLE TIME-LIMIT** WHEN A DATA SUBJECT CAN HAVE THEIR DATA BLOCKED OR ERASED UNDER THE CONDITIONS OF **ARTICLES 15 AND 16 OF REG.45/2001**

(Please, specify the time limits for every category, if applicable)

14/ HISTORICAL, STATISTICAL OR SCIENTIFIC PURPOSES

If you store data for longer periods than mentioned above, please specify, if applicable, why the data must be kept under a form which permits identification.

IN CASE THE INSTITUTION ENVISAGES TO USE DATA FOR FURTHER PURPOSES, IT SHOULD

- **INFORM THE EDPS WHICH DATA,**
- **ENSURE THAT THESE DATA ARE ANONYMISED OR ENCRYPTED**
- **INDICATE HOW THEY WILL BE ANONYMISED AND ENCRYPTED AND**
- **SET OUT A TIME-LIMIT**

15/ PROPOSED TRANSFERS OF DATA TO THIRD COUNTRIES OR INTERNATIONAL ORGANISATIONS

ART.9 REG.45/2001 "TRANSFER OF PERSONAL DATA TO RECIPIENTS ...WHICH ARE NOT SUBJECT TO DIRECTIVE 95/46/EC"

THE INSTITUTION SHOULD ENSURE THAT THESE THIRD COUNTRIES/INTERNATIONAL ORGANISATIONS **PROVIDE AN ADEQUATE LEVEL OF PROTECTION.**

ADEQUACY OF PROTECTION SHOULD BE ASSESSED IN VIEW OF THE CRITERIA UNDER ART.9(2) REG.45/2001

ANY EXCEPTIONAL CASES ARE PROVIDED FOR IN ART.9(6).

16/ THE PROCESSING OPERATION PRESENTS SPECIFIC RISK WHICH JUSTIFIES PRIOR CHECKING (*Please describe*):

The institution should indicate under which legal basis the processing presents special risks to the rights and freedoms of data subjects:

AS FORESEEN IN:

↑ Article 27.2.(a)

Processing of data relating to health and to suspected offences, offences, criminal convictions or security measures,

↑ Article 27.2.(b)

Processing operations intended to evaluate personal aspects relating to the data subject, including his or her ability, efficiency and conduct

↑ Article 27.2.(c)

Processing operations allowing linkages not provided for pursuant to national or Community legislation between data processed for different purposes,

↑ Article 27.2.(d)

Processing operations for the purpose of excluding individuals from a right, benefit or contract,

↑ Other (general concept in Article 27.1)

17/ COMMENTS

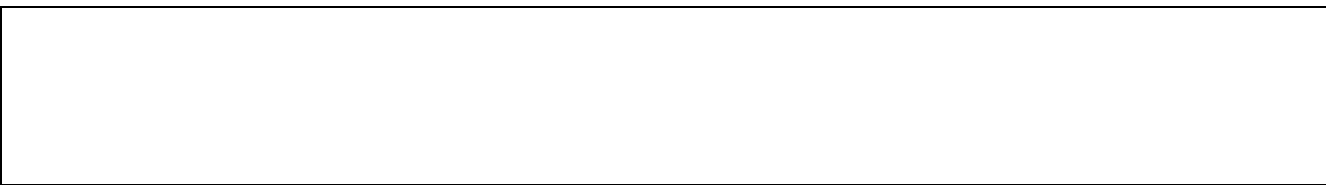
ANY COMMENTS YOU MIGHT DEEM RELEVANT TO THE PROCESSING?

18/ MEASURES TO ENSURE SECURITY OF PROCESSING³ :

Please check all points of Article 22 of Regulation (EC) 45/2001

The institution should conduct its own risk assessment exercise in implementing all requirements of Art.22 to the specific processing and provide the EDPS with the specific security measures intended to be adopted (ways of ensuring availability, integrity, confidentiality, access control, audit trail)

³ Not to be published in the EDPS' Register (Art. 27(5) of Regulation (EC) N°: 45/2001)



PLACE AND DATE: BRUSSELS, ../..2013

DATA PROTECTION OFFICER:

INSTITUTION OR BODY: ...

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EDPS OPINION

OF DATE:

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FOLLOW UP *(in case of acting measures to be taken)*

