

REGISTER NUMBER: 182

NOTIFICATION FOR PRIOR CHECKING

Date of submission: 19 March 2007

Case number: 2007-176

Institution: CPVO

Legal basis: article 27-5 of the regulation CE 45/2001⁽¹⁾

(1) OJ L 8, 12.01.2001

INFORMATION TO BE GIVEN⁽²⁾

(2) Please attach all necessary backup documents

1/ Name and adress of the controller
Human ressources service, (+33) 2.41.25.64.27

2/ Organisational parts of the institution or body entrusted with the processing of personal data
As the CPVO is an EU Agency of small size, it is not possible to provide in-house medical service. Therefore, the CPVO has signed 3 contracts with 1) Dr Stievenard at the the 'Cabinet médical d'Avrillé" to outsource the pre-employment medical visit and the annual check-up of the CPVO staff members, 2) Dr Buisson and Jobard from the "Cabinet d'Ophtalmologie d'Avrillé" for the eyes tests required in the pre-employment medical visit and the annual check-up of the CPVO staff members and 3) the "laboratoire d'Avrillé" for urin and blood tests required in the pre-employment medical visit and the annual check-up of the CPVO staff members. A copy of each contract is attached (annexe 7 'completed') as well as the description of the tests required (Annexes 1a and 1b) which are sent with the contracts to the contracting parties.

3/ Name of the processing
Pre-employment visit and annual medical examination

4/ Purpose or purposes of the processing

Pre-employment visits : Article 28(e) of the SR states that "*an Official may be appointed on on a condition [...] that he is physically fit to perform his duties, [...]*". Before appointment, a candidate shall be medically examined by one of the Institution's medical officers in order that the Institution may be satisfied that he fulfils teh requirements of Article 28(e).

Annual check-up : As provided for in Article 59(6) of the SR, "*Official shall undergo a medical check-up every year either by the Institution's medical officer or by a medical practisioner chose by them*".

The purpose of the pre-employment visit is to determine wether or not a candidate is fit for the work he/she intends to do whereas the annual check up is more prevention-oriented since there is no obligation for a staff member who discovers a health problem to udertake treatment.

Both those medical checks (annual and pre-employment) are composed of 3 types of exams : blood tests, eyes tests and general medical visit with a doctor.

The CPVO does not process data in relation to the annual check-up. All data is collected and kept by the contracted doctor. As regards the pre-employment check, the office is processing the data sin the sense that it is storing the report saying that the person is fit. This data is kept in the personal file.

5/ Description of the category or categories of data subjects

For candidates who sucessfully pass a competition for a position at CPVO, the pre-employment checks are, as a general rule, organised by the CPVO with the three contracting parties. However, on request, a successful candidate can be authorised to make the pre-employment check with another medical examiner of one of the Institutions/bodies.

The contract with the doctor provides for the possibility for the CPVO to request additional medical visits at the place of the employee as provided for in article 59(1) 3rd paragraph of the SR.

For CPVO staff members employed as Official, temporary agent or auxiliary agent who expressed their wish to do the annual examination with the contracting parties of the CPVO . Concerned agents always have the possibility to In the context of serious sickness/invalidity, if medical visits would be necessary, these would have to be organised separately.

6/ Description of the data or categories of data(including, if applicable, special categories of data (article 10) and/or origin of data)

The data collected for the annual visit and the pre-employment visit are detailed in annexes 1a, 1b, 2, 3 and 4. Most of the data collected are the same for both visits, with some supplementary data for the pre-employment visit.

Once collected, the doctors keep the data and send to the HR department of the CPVO either a form attesting the physical suitability/partial suitability or non-suitability of a candidate to fill the vacant post for the pre-employment visits (see annex 5) or a form attesting that the CPVO staff member undertook the exams for the annual visit (see annex 6). No other data are sent to the CPVO.

7/ Information to be given to data subjects

For candidates who sucessfully pass a competition for a position at CPVO, the HR department ask for a number of documents, among which a recent medical certificate. In order to fulfill the obligation under Article 28(e) of SR, the CPVO alos organises a pre-employent visit with its contracting doctors. Article 6 of the employment contract of the CPVO states that "the contract is concluded under the suspensive condition of a positive result of the pre-employment medical visit." In case of negative medical report, Article 33 of SR applies.

For the annual medical visit, an email is sent each year by the HR department asking for staff to indicate wether or not they will undertake the annual medical checks wiith the contracting doctors of the CPVO. Information is given that if a staff member decide to go to his/her own doctor, they will have to use the same relevant forms as fo the contracting doctors of the CPVO (see annexes 2 and 3) and will be reimbursed, on request, in accordance with article 59(6).

<p>8/ Procedures to grant rights of data subjects(<i>rights of access, to rectify, to block, to erase, to object</i>)</p> <p>In accordance with Article 26(a) of the SR, staff members shall, on request, have the right to access his/her personal file. For medical files, the CPVO staff member shall ask directly and individually the Cabinet médical d'Avrillé and the Cabinet d'Ophtalmologie d'Avrillé. For blood & urin tests, a copy of the results is sent directly, by the laboratory, to the staff member's home address.</p>
<p>9/ Automated / Manual processing operation</p> <p>No automated action. The doctors keep a paper file with test results and diagnosis. The forms are all kept by the doctors themselves. A certificate indicating that the relevant staff member took his/her medical check (annual or for newly employed staff) is sent to the CPVO HR department (see annexes 5 and 6). It is added to the personal file of each relevant staff member and kept in a locked cupboard by the HR service.</p>
<p>10/ Storage media of data</p> <p>On paper.</p>
<p>11/ Legal basis and lawfulness of the processing operation</p> <p>Staff Regulation, Article 59(6)</p>
<p>12/ The recipients or categories of recipient to whom the data might be disclosed</p> <p>The staff member himself/herself upon request.</p>
<p>13/ retention policy of (categories of) personal data</p> <p>The French Law applies for the data kept by the contracted doctors. The information that a person is fit (received for new employed staff), which is kept in the personal file, is not subject to any retention policy. There is in our view no reason to have a specific retention scheme since the information that a person is fit, can in no way harm the integrity of a person. In case of a negative report from the doctors (form received indicating that the person is not fit which will lead to non employment of a successful candidate), the retention period is, as for other candidates, 24 months.</p>
<p>13 a/ time limits for blocking and erasure of the different categories of data (on justified legitimate request from the data subject) (Please, specify the time limits for every category, if applicable)</p> <p>For blocking : French Law applicable for the contracted doctors. For erasing: French Law applicable for the contracted doctors. The CPVO does not have a procedure. Each request will be dealt with on a case/case basis.</p>
<p>14/ Historical, statistical or scientific purposes</p> <p><i>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,</i></p> <p>Not applicable</p>
<p>15/ Proposed transfers of data to third countries or international organisations</p> <p>Data in medical files are not transferred to anyone.</p>
<p>16/ The processing operation presents specific risk which justifies prior checking (<i>please describe</i>):</p> <p>Processing of data relating to health is a sensitive issue since the spread to third parties could cause damages to the data subjects.</p>

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,

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

PLACE AND DATE:

DATA PROTECTION OFFICER:

INSTITUTION OR BODY: