

**REGISTER NUMBER: 436**

**NOTIFICATION FOR PRIOR CHECKING**

Date of submission: 02/12/2008

Case number: 2008-737

Institution: EFSA

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

*(1) OJ L 8, 12.01.2001*

**INFORMATION TO BE GIVEN<sup>(2)</sup>**

*(2) Please attach all necessary backup documents*

**1/ Name and address of the controller**

Catherine Geslain-Lanéelle, EFSA Executive Director

**2/ Organisational parts of the institution or body entrusted with the processing of personal data**

(1) Heads of Unit, Directors and the Executive Director of EFSA, according to their respective responsibilities in charge of coordination and support to the EFSA Advisory Forum, the EFSA Scientific Committee, EFSA Scientific Panels and Working Groups as well as in their capacity of line manager for the staff in their units ; (2) The Chairperson of the EFSA Management Board, in charge of coordinating the work of the EFSA Management Board and of the EFSA Executive Director.

**3/ Name of the processing**

Handling of Annual and Specific Declarations of Interest

**4/ Purpose or purposes of the processing**

Purpose of the personal data processing is to ensure compliance with legal obligations laid down in Article 37 of Reg. (EC) No 178/2002 (hereafter: EFSA Founding Regulation) which states that members of the Management Board, the members of the Advisory Forum, the members of the Scientific Committee and Panels and the Executive Director shall undertake to act independently. More in detail, that provision imposes on them the obligation to make a) a declaration of commitment b) an annual declaration of interests “*indicating either the absence of any interests which might be considered prejudicial to their independence or any direct or indirect interests which might be considered prejudicial to their independence*”. Further to that, in accordance with Article 37 (3) of the EFSA Founding Regulation, the persons identified above and any external expert shall declare at each meeting any interests which might be considered prejudicial to their independence in relation to the items on the agenda.

In addition, with adopting the EFSA Policy on Declarations of Interest, the EFSA Management Board decided to extend the obligation to declare interests by means of an annual Declaration of Interest, to all EFSA staff of AD level or equivalent and to all persons attending a meeting organised by EFSA concerning its institutional activities. (EFSA Policy on Declarations of Interest, dd. 05/10/2007 – annex 1). By virtue of art. 38 (1) of the EFSA Founding Regulation, the Annual Declarations of Interest of the Management Board; Executive Director, Advisory Forum members, Scientific Committee and Scientific Panels are made public by means of upload on the EFSA website.

#### **5/ Description of the category or categories of data subjects**

(1) Members of the Management Board, (2) Members of the Advisory Forum, (3) Members of the Scientific Committee and Panels, (4) The Executive Director, (5) All EFSA staff of AD level or equivalent (therefore also CA, FG IV, ENDS), (6) External experts, (7) Member States experts, (8) Anybody attending or participating in a meeting organised by EFSA concerning its institutional activities

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

Personal data contained in Annual and Specific Dols *inter alia* concerns data likely to present specific risks in the sense of art. 27 of the DP Regulation, namely: (a) data concerning the data subject's private sphere, (b) data concerning the data subject's family, i.e. data concerning the data subject's partner, though though without specification on the name of the partner nor on the modality of the relationship, (c) data concerning the data subject's career

More in particular, the following information is contained in the Declarations of Interest: (a) any substantial financial interests in a company/entity operating in the food or feed business, including holding of stocks and shares, equity, bonds, partnership interests in the capital of a company, one of its subsidiaries or a company in which it has a holding. The holding of financial interests connected with a pension scheme would not be considered a financial interest, provided that the individual has no influence on its financial management. (b) Any participation in the internal decision-making of a company, trade association or equivalent entity (e.g. board membership, directorship). (c) Present or past participation of the data subject in the works of a Scientific Advisory Body with a right to vote on the outputs of that entity.

(d) All forms of employment, part-time and full-time, either paid or unpaid, in any organisation whose activities are linked to EFSA's remit ; (e) Any activity in which the data subject charges or does not charge a fee for providing consultancy/advisory services, including the names of the beneficiary organisations of the consultancy. However, to accommodate the justified concern data subjects may have with regard to the publication of names of organisations to which they have provided services, they can opt for not publishing this part of the information in their DoI on the EFSA website. The DoI electronic tool includes a special feature to accommodate this option of hiding the name of the organisation – see annex 4. Under this category should be specified also any past and on-going contracts or collaborations with the EFSA falling outside the work of the Panel/Working Group/Scientific Committee, i.e. on the subject matter of the consultancy ;

(f) Any funding for research in relation to matter or work financed by a private or public entity, including grants, rents, sponsorships and fellowships and received in a personal capacity. Research projects may be grouped together without stating the title of each project provided that a relationship between them exists ; (g) Rights granted to creators and owners of works that are the result of human intellectual creativity. These can be publications or can be in the industrial, scientific and artistic domain. They can be in the form of an invention, a document, a suite of software, or a business name (e.g. copyrights, patents, trademarks et cetera) ; (h) Any membership or affiliation other than the above, which can be perceived as an interest in EFSA's remit ; (i) Known interests held by family members and relatives belonging to the same household or under the care of the members of the household. In order to maintain privacy, their names should not be declared nor the type of relationship. On the electronic tool (see details below under point 9), just the nature of the activity triggering the interest if the close family member should be indicated, by choosing from a 'drop-down list' in the system ;

(j) Any activities or interests other than the above, which can be perceived as an interest in an activity included in EFSA's remit.

## **7/ Information to be given to data subjects**

The importance of providing declarations if interest and the nature of interests to be declared are explained in the Implementing Act to the policy on declaration of interests - Guidance document on Declarations of Interest (see annex 2). This Guidance document should be crossread with the Implementing Act to the policy on declaration of interests - Procedure for identifying and handling potential conflicts if interest (annex 3).

The purpose of the processing is to safeguard the independency of EFSA and its constituent bodies. The EFSA Executive Director has been identified as the controller for handling declarations of interest. The nature of interests to declare and the obligation to do so as well as possible consequences of not declaring are explained in the Guidance document. Recipients of the DoIs are the persons and bodies referred to in the Procedure for identifying and handling potential conflicts if interest (annex 3). EFSA will not keep DoIs for any period longer than 5 years after the financial discharge of the budget execution of the given year. The Guidance document on Declarations of Interest (annex 2) includes the following reference on the Data Protection Regulation :

“Without prejudice to Regulation (EC) No 178/2002, EFSA shall process Annual Declarations of Interest and Specific Declarations of Interest pursuant to Regulation (EC) N° 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data.”

Note from the DPO: originally a more extensive data protection note was proposed for the Guidance document, however this was not kept in the final version. The more extensive DP note for the Guidance Document as proposed by the DPO read as follows: (row 30-31 below)

“Without prejudice to Regulation (EC) No 178/2002, EFSA shall process Annual Declarations of Interest and Specific Declarations of Interest pursuant to Regulation (EC) N° 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data. The purpose of the processing is to safeguard the independency of EFSA and its constituent bodies. The EFSA Executive Director is identified as the controller of handling the declarations of interest. The nature of interests to declare and the obligation to do so as well as possible consequences of not declaring, are explained in the present document (read: the Guidance Document). The recipients of the Declarations of Interest are the persons and bodies identified in the document “Procedure for Identifying and Handling Potential Conflicts of Interest”, without prejudice to the publicity requirement regarding specifically Annual Declarations of Interest laid down in Article 38,1°(d) of Regulation (EC) No 178/2002.

Furthermore, Declarations of Interest may be transferred to bodies in charge of monitoring or inspection task in conformity with Community Law, including the European Court of Auditors, the Internal Audit Service, OLAF, the European Data Protection Supervisor. EFSA will not keep Declarations of Interest for any period longer than 10 years. Data subjects have a right to access their Declaration of Interest and to update or correct it. They are also entitled to have recourse at any time to the European Data Protection Supervisor: <http://www.edps.europa.eu>”

#### **8/ Procedures to grant rights of data subjects(*rights of access, to rectify, to block, to erase, to object*)**

By means of the electronic tool, detailed in below point 9 and annex 4 to this notification, data subjects are at any time able to edit their Dol and to re-submit it to EFSA for publication.

#### **9/ Automated / Manual processing operation**

Since July '08 the processing is largely carried out by means of an IT tool. The electronic tool can be accessed via a password-protected on-line scientific workspace, called EFSA Extranet, more specifically in the experts meeting invitation feature on the EFSA Extranet. The electronic tool allows the creation of a new Annual Dol, updating of existing ones and creation of specific Dols. Also the outcome of screening is given. The system allows both spontaneous updating of Dol and also includes an automatic notification feature with an e.mail to experts when their annual Dol should be updated (e.mail sent after 11 months of the previous update). A user guide on the electronic tool is available, explaining creation of a declaration and updating it, editing interests, etc. (see annex 4) ; As concerns the annual Dols of EFSA staff, until present these are being processed on paper. From 2009 onwards, the IT tool will also be used to process Dols of EFSA staff. In this way EFSA is gradually moving to the electronic processing of all Declarations of Interests.

#### **10/ Storage media of data**

Paper version Dols of staff are held in the EFSA Administration Directorate ; Paper version Dols of members of EFSA's constituent bodies, including the Management Board are held in the EFSA Risk Assessment Directorate. Electronic Dols as well as drafts saved in the system before submission are stored on the servers of EFSA, with restricted access to EFSA IT staff only and functioning with application of all security measures applicable in a professional IT environment.

#### **11/ Legal basis and lawfulness of the processing operation**

Processing operation clearly covered by the mandate of EFSA. They are covered by Art. 37 & 38 of the EFSA Founding Regulation and Decision of the EFSA Management Board regarding annual declarations of interest from AD-grade EFSA staff.

**12/ The recipients or categories of recipient to whom the data might be disclosed**

By virtue of article 38 (1) of the EFSA Founding Regulation, the Annual Declarations of Interest of the Management Board members, the Executive Director, the Advisory Forum members, the Scientific Committee and Scientific Panel members are made public by means of an upload on the EFSA website. This web publication has been extended to Working Group experts, under the condition that they give their prior consent for publication upon preparation of their ADol in the electronic system. Heads of unit at EFSA, Directors, the EFSA Executive Director and the chairperson of the Management Board are involved in the review process of Dols.

**13/ retention policy of (categories of) personal data**

EFSA will keep Declarations of Interest for a period not longer than 10 years. The 10-years period corresponds to the period of validity of authorisations by EFSA scientific panels in core business areas such as genetically modified organisms, feed additives and smoke flavourings.

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)*

The time needed for in-house processing of a justified request for blocking or erasure of declarations of interest published on the EFSA website is 5 working days.

**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,*  
not applicable

**15/ Proposed transfers of data to third countries or international organisations**

No such a transfer is currently foreseen or envisageable.

**16/ The processing operation presents specific risk which justifies prior checking ( please describe ):**

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

Annexes to this notification: Annex 1 - EFSA policy on declarations of interest ; Annex 2 - Implementing Act to the policy on declarations of interest - Guidance document on declarations of interest, including the Dol form ; Annex 3 - Implementing Act to the policy on declarations of interest - Procedure for identifying and handling potential conflicts of interest ; Annex 4 - Guidance on Dol electronic tool ; Annex 5 - DPO notification (annexes 1 to 3 are available on-line on the EFSA website)

PLACE AND DATE: Parma, 02/12/2008

DATA PROTECTION OFFICER: Claus Reunis

INSTITUTION OR BODY: European Food Safety Authority (EFSA)