

**REGISTER NUMBER: 570**

**NOTIFICATION FOR PRIOR CHECKING**

Date of submission: 15/02/2010

Case number: 2009-764

Institution: CFCA

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

Niall McHale, Head of Unit Resources, Community Fisheries Control Agency, Avda. Garcia Barbon, 4, E-36201 Vigo

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

Unit Resources, Human Resources Section

3/ Name of the processing

The processings are categorized in four areas where health data might be processed by the Unit Resources, Human Resources Section. **A.** Recruitment - Medical entrance examination / **B.** Annual medical examination / **C.** Staff management: Leave - Managing sick leave / **D.** Any other processing of health data (medical information) as necessary for specific or exceptional cases.

4/ Purpose or purposes of the processing

**A.** Medical entrance examination: To determine whether or not a person is physically fit to perform his/her duties, and in exceptional cases if the person needs certain accommodations at the workplace, or to assess whether a limitation on benefits is necessary / **B.** Annual medical examination: Organisational arrangement concerning the annual medical visit (and its regularisation in accordance with SLA with Medical Service of the Commission, reimbursement of staff member in case of general practitioner and his/her possible mission to Brussels) / **C.** Managing sick leave: monitoring of sick leave days of staff and the justifications for medical absence / **D.** Any other purpose of processing medical information as necessary for specific or further exceptional cases (e.g. specific medical check up of a staff member, protracted sick leave, necessity of medical arrangements for staff, collaborators or visitors, and any other health issues making necessary administrative involvement of the Agency).

5/ Description of the category or categories of data subjects

In first line all persons working at the Agency as temporary agents, contract agents, seconded national experts (SNE/ SNEs referring only to C. Managing sick leave and possibly D. Any other medical information), and candidates for recruitment (referring only to A. Medical entrance examination), further any other person eventually disclosing health data to the Agency.

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

Distinction is made between three types of personal data on health: Type I - original medical data including clinical details, diagnosis, treatment, laboratory results issued by medical services and doctors; Type II - meta data that allow conclusions to be drawn about medical data (e.g. notification result on suitability for recruitment) and Type III - organisational data on medical exercises. / Examples: for A. Medical entrance examination: Notification on the medical suitability of a candidate for recruitment in accordance with the applicable regulations (=Type II); for B. Annual medical: invitation letter visits (Type III)/ for C. Medical certificates containing information on sickness (Type I); document including the number of sick days of individuals (Type II). for D. Notifications of medical services on the results of a specific examination, reference documents with medical content (Type II) related to individuals.

7/ Information to be given to data subjects

**A.** In the letter inviting to the medical entrance examination the person concerned is informed that the result of the medical examination is kept by the Medical Service of the Commission and the CFCA only receives a notification on the medical suitability of a candidate for recruitment in accordance with the applicable regulations. (see Annex I) / **B.** The staff member is informed that no information about the result of the medical examination is communicated to the CFCA. (see Annex II) / **C.** The staff members and the SNE's are informed in a general note from HR (and in the welcome pack for newcomers) that their medical certificates are kept in Human Resources: "For the administration of sick leave the Agency needs to receive a medical certificate from you in certain cases. This certificate has to indicate clearly the name of the staff member/ SNE, period of sickness and reference data of the doctor. To avoid that additional, unnecessary medical information is contained in the certificate, please ask your doctor to issue a certificate without any medical information on the sickness. The certificate is processed in HR solely for the purpose of evidencing your entitlement to sick leave and will be destroyed after three years."

(see Annex II) / **D.** The data subject will be provided with the necessary information on a case by case basis.

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

A.+ B. Staff is informed of the contact in the medical service to exercise their rights (see Annex I, II) / C.+ D. In relation to any requests, if the data subject requests the controller orally, by email or by paper to exert his/her rights, the controller will facilitate the applicant the exercise of the rights.

9/ Automated / Manual processing operation

A. A medical examination date at the Commission Medical Service is arranged by the HR section. The HR section receives information on the result of the examination from the Medical Service in form of a notification informing if the person is suitable or not suitable for recruitment.

B. The annual medical examination is conducted by the Medical Service of the Commission in Brussels. The Agency arranges the visit and processes the payment (Type III data). Alternatively, the Agency may reimburse medical expenses generated by the annual medical visit to a medical practitioner of the choice of the staff member concerned (Article 59.6 Staff Regulations). The Resources Unit, Human Resources Section may also be involved in organisational matters, however solely deals with data Type III. It explicitly avoids to receive medical data and ensures that no data of Type I or Type II is communicated to the sections dealing with budget and payment as regards reimbursement or to other sections/Units as regards organisational matters.

C. Medical certificate is delivered by the data subject to the agent responsible for managing leave of the HR section. The medical certificate is routed to the HR Officer for the recognition of sick leave covering the justified period. The original documents are stored in the special sick leave folder. The information on sick leave (duration, specific dates, names) are processed in an excel sheet (in the future, the introduction and management of this data is planned to be processed by the Leave management module of the Personnel application) which is saved in a special electronic folder to which only the HR Officer and the Assistants working in the Human Resources Section have access.

D. In exceptional cases, e. g. when it is determined that the person needs certain ergonomic arrangements at the workplace, or it is assessed that a limitation on benefits is necessary, only the HR Officer and the Head of Unit Resources deal with such data as far as necessary in order to make the respective arrangements.

#### 10/ Storage media of data

**A.** The notification regarding the medical entrance examination is stored in the personnel file. Notifications declining the medical suitability for recruitment are being filed in the recruitment file of the respective selection procedure. **B.** Person related notifications from the Medical Service concerning the annual visit are stored in the personnel file (Type III or II). Organisational documents (SLA, specifications, lists with names / Type III) are being stored under separate files "Annual Medical" (paperfiles and electronic documents). **C.** Medical certificate is delivered by the data subject to a dedicated agent of the HR section. The medical certificate is presented to the HR Officer for the recognition of sick leave covering the justified period. The documents are stored in the special sick leave folder. The information on sickleave (duration, specific dates, names) are processed in an excel sheet (later, the introduction and management of this data is planned to be processed by the Leave management module of the Personnel application). **D.** Data regarding specific cases are stored with the HR Officer or with the Head of Unit Resources, or where appropriate, in the personnel file of the staff member concerned .

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

Art. 5a Regulation (EC) 45/2001; Art. 28, 33, 59 (1) and (6) Staff Regulations, Art. 12(d), 13(2), 16(1), 59, 83 (2), 91 CEOS

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

Temporary or contract agents working in the HR section and dealing with personnel file, leave and entitlement of rights, HR Officer, Head of Unit Resources

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

Data related to medical examination in cases for non recruitment: Data retention period of 3 years. Longer in cases where a dispute or appeal are under way. The implementation (destruction of data) is followed up once yearly by a scheduled task of the HR tasks roadmap. In case of recruitment: Data retention period 10 years as of the termination of employment or as of the last pension payment. The implementation (destruction of data) is followed up once yearly by a scheduled task of the HR tasks roadmap.

**B. Data related to the organisation of the annual medical visit:** Data retention period 2 years. The implementation (destruction of data) is followed up once yearly by a scheduled task of the HR tasks roadmap.

**C. Data related to sick leave:** No retention of Data Type I (to be erased). Data retention of other data 3 years for data necessary to justify an absence due to sick leave. Longer in cases where a dispute or appeal are under way. The implementation (destruction of data) is followed up once yearly as a scheduled task of the HR tasks roadmap. **D. Specific cases:** Data retention period of 3 years. Longer in cases where a dispute or appeal are under way.

The implementation (destruction of data) is followed up once yearly by a scheduled task of the HR tasks

#### 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)*

N/A

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,*

N/A

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

N/A

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

The processing operations notified involve health data and therefore present specific risks

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

none

PLACE AND DATE: Vigo, 16 November 2009

DATA PROTECTION OFFICER: Rieke Arndt

INSTITUTION OR BODY: Community Fisheries Control Agency