

REGISTER NUMBER: 573

NOTIFICATION FOR PRIOR CHECKING

Date of submission: 15/02/2010

Case number: 2009-784

Institution: EFSA

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

Nicoline Le Gouriérec, Head of Human Resources Unit

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

HR staff of the Staff Development & Welfare Team, under the supervision of the Team Leader and Head of HR Unit

3/ Name of the processing

Processing of health data at EFSA

4/ Purpose or purposes of the processing

The processing of health data serves various organisation management purposes at EFSA, including:

- Management of pre-employment and annual medical check-ups for Officials, Temporary Agents (TA), Contract Agents (CA)
- Management of certain leave entitlements and determining working conditions for Officials, TA, CA and Seconded National Experts (SNE)

5/ Description of the category or categories of data subjects

Two categories of data subject can be distinguished, namely:

- EFSA staff, including Officials, Temporary Agents (TA), Contract Agents (CA) and Seconded National Experts (SNE)
- In connection to certain types of special leave documented in prior check 2009-0455: relatives of EFSA staff, including spouse, children and relatives in ascending line.

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

Being a special category of data in the sense of art. 10 of Regulation 45/2001, details on personal health data processed as well as on the need for that in view of specific rights & obligations of the data controller, have been provided on the occasion of prior checks 2006-365 and 2009-0455. On the occasion of the present notification and based on the EDPS guidelines of September 2009 on processing of health data, EFSA reviewed the medical questionnaire applied for the pre-employment medical visit as provided in Annex 1. The medical examination document applied in the context of the annual medical check-ups will continue to be used, but has been modified to include a consent and signature box by the data subject (please see Annex 2) .

7/ Information to be given to data subjects

At EFSA, various documents and tools are used to inform data subjects on lawful processing of their health data. Specific information notes compliant with Arts. 11 and 12 of Regulation No. 45/2001 are provided to data subjects as part of invitations to undergo the pre-employment and annual medical check-ups. The templates were shared previously with EDPS on the occasion of prior check 2006-365.

- EFSA is currently developing an Intranet Portal and it is foreseen that this Portal will include a page dedicated to Staff Welfare. An 'Information Note on the Medical File' concerning the processing of medical data will be available on the Portal and a draft of the Note is provided in Annex 3 to this notification;
- Information on processing of health data in the context of Leave Management is contained in an Internal Administrative Guidance on consolidated rules concerning leave and working conditions, shared with EDPS on the occasion of prior check 2009-0455.
- In addition, the HR Unit ensures regular communication to all staff, further administrative guidance on specific matters as well as monthly presentations and training sessions to newcomers.

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

The following procedures are applicable at EFSA:

- On the occasion of the present notification and based on the EDPS guidelines of September 2009 on the processing of health data, a guidance document on access to the medical file will be adopted as provided in Annex 4. This guidance document will be uploaded on the Staff Welfare page of the EFSA Intranet Portal.
- Specific procedures applied concerning rights of data subjects in the context of Leave Management have been communicated to EDPS on the occasion of prior check 2009-0455.

9/ Automated / Manual processing operation

Health data are mainly processed on paper. As detailed on the occasion of prior checks 2006-365 and 2009-0455, documents revealing a personal health status, medical data or a health diagnosis are processed on paper and only disclosed to the EFSA Medical Adviser.

An electronic leave request workflow (automated processing) is applied for administrative data and payment data in the context of Leave Management as detailed on the occasion of prior check 2009-0455.

10/ Storage media of data

The EFSA medical file is kept with the EFSA Medical Adviser.

On the occasion of the present notification and based on the EDPS guidelines of September 2009 on processing of health data, a brief guidance on the set-up of the medical file has been prepared for the EFSA Medical Adviser. This guidance document is provided in Annex 5 to this notification.

11/ Legal basis and lawfulness of the processing operation

The processing operation is covered by the mandate of EFSA:

- o Articles 28, 33 and 59 of the Staff Regulations and Articles 12, 13 and 83 of the CEOS
- o Working conditions of officials, applied by analogy to other servants of the European Communities, as per Title III & IV of the Staff Regulations; implementing provisions concerning leave and implementing provisions on absence as a result of sickness and accident;

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

The following information can be provided:

- As concerns pre-employment and annual medical check-ups, a specification on recipients and transfers involving the EFSA Medical Adviser and the EFSA Medical Centre was provided on the occasion of prior check 2006-365.
- As concerns the EFSA Leave Management, the workflow i.e. supported by the IT tool and other categories of recipients were detailed on the occasion of prior check 2009-0455.

13/ retention policy of (categories of) personal data

The following can be distinguished:

- Retention of the EFSA medical file: The retention period of the medical file was communicated to EDPS in September 2008, as a follow-up to the relevant recommendation in the EDPS prior check opinion 2006-365. The note concerned, dated 22 August 2008, is provided in Annex 6 for easy reference;
- Retention of 'administrative' health data: The retention period was detailed on the occasion of prior check 2009-0455.

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)

Data subjects can exercise their rights at any time by contacting HR staff in charge. Justified requests for blocking and erasure will be handled as a priority matter and normally within 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,

This aspect was briefly addressed on the occasion of prior checks 2006-365 and 2009-0455.

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):

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

This notification is documented with the following annexes: 1. Form 'Medical Examination before appointment'

2. Form 'Scheda Sanitaria'

3. Information note on the medical file

4. Guideline on access to medical files

5. Guideline on how to set-up medical files 7. DPO notification by the data controller

6. Guideline on the retention of medical files

PLACE AND DATE: Parma, 20/11/2009

DATA PROTECTION OFFICER: Claus Reunis

INSTITUTION OR BODY: EFSA - European Food Safety Authority