

**REGISTER NUMBER: 578**

**NOTIFICATION FOR PRIOR CHECKING**

Date of submission: 12/02/2010

Case number: 2010-033

Institution: FRA

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**

Paul Cozzi (Head of Human Resources and Planning Department), European Union Agency for Fundamental Rights (FRA), Schwarzenbergplatz 11, 1040 Vienna, Austria

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

Head of Human Resources and Planning Department  
Human Resources

**3/ Name of the processing**

Processing of health data at the European Union Agency for Fundamental Rights (FRA)

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

Recruitment - pre-recruitment medical examinations;  
Medical certificates certifying medical aptitude for work;  
Medical certificates concerning sick leave;  
Reimbursement of medical expenses in the light of annual medical exams;  
Request for invalidity allowance.

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

Data subjects are staff members of FRA i.e. temporary agents and contractual agents as well as national experts, trainees and candidates for the positions mentioned above.

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

The pre-recruitment medical exams determine whether or not a person is physically fit to perform his/her duties, needs certain accommodations at the workplace, or to assess whether a limitation on benefits is necessary. The data subjects receive a job offer where information is given about the pre-recruitment medical exams including the list of the exams (see Annex 1).

Medical certificates produced by the person concerned. Only relevant data for the purpose of justification of a medical absence or initiation of a control of an absence is requested in such a medical certificate.

Reimbursement of annual medical expenses covered by FRA. They are performed by a practitioner of the staff member's choice. The staff member receives the list of the exams to be carried out from HR and go for the tests and the visit. The staff member submits his/her claim for reimbursement together with the prescription of the doctor (if applicable), invoice indicating the services provided, receipt or proof of payment (see Annex 2).

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

In the case of pre-recruitment medical exams, the data subjects are informed at a very early stage through the vacancy notice (see Annex 3) and later on via the job offer (see Annex 1). The FRA keeps only the medical "fit/not fit/ fit with reserve to work" certificate which is filled in the personal file of the staff member. The results of the pre-recruitment exams are kept with the data subject. This is due to the absence of a medical officer/service at FRA.

In the case of the medical certificates the data subjects are informed via the MB Decision 2008/1 (see Annex 4) and by the dedicated HR staff that the type of sickness/accident is private and thus not to be communicated to the Agency.

In the case of annual medical exams the data subjects are informed through the Note of the Director dated 28/09/2009 (see Annex 2).

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

The staff members have access to their personal file any time upon appointment with HR.

The right of rectification may apply to administrative data.

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

Automated: N/A

Manual: medical certificates for: a) "fit/not fit/fit with reserve to work, b) on sick leave, c) claims for reimbursement of annual medical expenses

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

File system: secure storage of data. Restricted access to HR staff.

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

Pre-recruitment medical examination: Articles 12(d), 13(2) and 83 of the Conditions of Employment of Other Servants (CEOS) and Articles 28 and 33 of the Staff Regulations.

Annual medical examination: Articles 16(1), 59 and 91 of the CEOS and Articles 59 (6) of the Staff Regulations.

Medical certificate to verify absence because of sickness/accident: Article 59 (1) of the Staff Regulations and Article 16 of the CEOS.

Claims for reimbursement of medical expenses: Articles 72 and 73 of Staff Regulations

Invalidity allowance: Article 78 of the Staff Regulations

Articles 5(a), 27 (2)(a) of Regulation (EC)45/2001.

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

The recipients are:

Restricted number of HR staff

The director of the FRA

A transfer of health data might take place among EU Institutions and Agencies at the moment of the recruitment

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

Recruited persons: indefinite period i.e. as long as the personal file exists.

Non-recruited persons: The medical data of not recruited persons is kept only for the period of time during which it is possible to challenge the data or the negative decision taken on the basis of the data.

Data related to sick leave: Article 59 (4) of SR conservation period of 3 years for data necessary to justify an absence due to sick leave.

Specific health data for invalidity allowance: indefinite period.

### 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,*

Only data related to sick leave is used for statistical purposes in order for FRA to comply with Article 59 of the Staff Regulations, referring to monitoring of sick leave for 12 days without producing a medical certificate.

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

Transfers may take place, for example, if health data is transferred to external doctors appointed by the data subject and by the FRA in the case for example of a request for invalidity allowance.

### 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**

List of Annexes:

Annex 1 - Job offer containing information about the pre-recruitment medical exam

Annex 2 - Note of the Director on the Annual medical check-up (28/09/2009)

Annex 3 - Vacancy notice containing the information about a requisite medical examination

Annex 4 - MB Decision 2008/01 on the adoption of implementing rules to the staff regulations

PLACE AND DATE: Vienna, 12/01/2010

DATA PROTECTION OFFICER: Nikolaos FIKATAS

INSTITUTION OR BODY: European Union Agency for Fundamental Rights