

REGISTER NUMBER: 644

NOTIFICATION FOR PRIOR CHECKING

Date of submission: 03/12/2010

Case number 2010-964

Institution: European Commission

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 address of the controller

2) Name and First Name of the Controller: VAN HATTEM Dolf

3) Title: Head of Unit

4) Directorate, Unit or Service to which the Controller is attached: DG.C

5) Directorate General to which the Controller is attached: JRC

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

26) External Company or Directorate General to which the Processor is attached:

25) External Company or Directorate, Unit or Service to which the Processor is attached:

3/ Name of the processing

MANAGEMENT OF THE TECHNICAL ARCHIVES OF THE JRC ISPRA SITE.

4/ Purpose or purposes of the processing

- Keeping and maintaining correct paper and electronic archives of the building and infrastructure documents of the JRC Ispra Site in respect of the Commission policies on document management;
- Compliance to Italian legal prescriptions concerning storage and preservation of the documentation of buildings, their maintenance and eventual refurbishment, including personal data of the staff of the external contractors working on buildings, construction and maintenance.

5/ Description of the category or categories of data subjects

14) Data Subject(s) concerned:

- JRC Staff and stakeholders of the Technical Site Archives;
- External Contractors working on the Ispra Site;
- Employees of external contractors working on the Ispra Site.

16) Category(ies) of Data Subjects:

- JRC Staff and stakeholders of the Technical Site Archives;
- External Contractors working on the Ispra Site;
- Employees of external contractors working on the Ispra Site.

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

17) Data field(s) of Data Subjects:

Attention: Please indicate and describe in the answer to this question also data fields which fall under article 10

1. JRC Stakeholders of the Technical Site Archives:

- Staff Members: Name, Surname, Personal Number, Office Building and Number; Office phone number, e-mail, JRC Directorate and Unit;

2. Contractors: JIPSY Data: Name, Representative, Address(es), telephone & fax number; e-mail address(es) (if available);

3. Specific Data of contractors & their employees working on the Ispra Site

(NOTE: NOT AS FIELDS, but as scanned documents):

- Operational Safety Plan ("Piano Operativo di Sicurezza") and annexes:

Please see attached documents: "TSA_POS_Overview of Annexes_SPD_201003.doc" and "TSA_POS_Allegati_lista_SPD_201002.xls".

For clarity's sake, none of these documents are put in database fields, etc., nor will the personal data they contain be treated separately.

====> we need some details to correctly appreciate the application of Art. 27:

- what are the possible situations in INAIL and INPS + ex.
- what could be the name and locations of wounds + ex.
- how have the training certificates on health and safety been delivered; can an employee be refused such a certificate after the training;
- what are the reasons mentioned on the Penal certificate which could lead refusing an employee on the Ispra site.

18) Category(ies) of data fields of Data Subjects:

Attention: Please indicate and describe in the answer to this question also categories of data fields which fall under article 10

1. JRC Stakeholders of the Technical Site Archives:

- Staff Members: Name, Surname, Personal Number, Office Building and Number; Office phone number, e-mail, JRC Directorate and Unit;

2. Contractors: JIPSY Data: Name, Representative, Address(es), telephone & fax number; e-mail address(es) (if available);

3. Specific Data of contractors & employees working on the Ispra Site

(NOTE: NOT AS FIELDS, but as scanned documents):

- Operational Safety Plan ("Piano Operativo di Sicurezza") and annexes:

Please see attached document "ISTA_SpecificData _201003.doc".

For clarity's sake, none of these documents are put in database fields, etc., nor will the personal data they contain be treated separately.

This processing of personal data falls under Art. 10.

7/ Information to be given to data subjects

15a) Which kind of communication(s) have you foreseen to inform the Data Subjects as described in articles 11 - 12 under 'Information to be given to the Data Subject'

Please see Privacy Statement in attachment.

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

15b) Which procedure(s) did you put in place to enable Data Subjects to exert their rights: access, verify, correct, etc., their Personal Data as described in articles 13 - 19 under 'Rights of the Data Subject' :

Please see Privacy Statement.

A functional mailbox is available: JRC-TSA-EDRM-ADMIN@ec.europa.eu

9/ Automated / Manual processing operation

7) Description of Processing:

Attention: Please describe in the answer to this question if you process personal data falling under article 27 "Prior-Checking (by the EDPS - European Data Protection Supervisor)"

Management of the documents and records linked to the activities of construction and building maintenance on the Ispra Site. As part of the process, Construction Contractors must create and maintain, through the process of construction (from design to final handover) the so-called Piano operativo di sicurezza (POS - Operational Safety Plan), that contains annexes with public certificates concerning the workers. The POS is prescribed by Decreto Legislativo (decree) 81/2008.

Within the framework of the works on buildings, Contractors and Subcontractors must assemble the so-called Operational Safety Plans (Piano operativo di sicurezza), describing the construction yard and the risks of each job on the yard. In annex, personal documents are added (list in Annex), according to the prescriptions of the Italian laws on construction. These documents are an

integral part of the Building Record and as such, they are stored also within the electronic system, using DG Admin's Markings (see Security Notice No. 1, rev 3, of 30 January 2009). The marking 'Personal Data' will be used for those annexes to the Operational Safety Plans containing personal data, entailing a different procedure and limited visibility within the system.

This processing falls under Art 27.

8) Automated Processing operation(s):

Establishment of an Electronic Document & Records Management System for the Technical Site Archives (including collection, recording, organisation, storage, retrieval, consultation, use).

9) Manual Processing operation(s):

Partially automated capture, storage, retrieval of documents linked to the Construction activities on the Ispra Site.

10/ Storage media of data

Electronic and paper.

11/ Legal basis and lawfulness of the processing operation

11) Legal basis of Processing:

- Ispra Site Agreement of 1959 (GURI - Gazzetta ufficiale della Repubblica italiana- 1960, n. 212, legge 1 agosto 1960, n. 906), more especially the articles on the respect of Italian legislation on the Ispra Site (Annex F, art. 16-19 on safety and public health; art. 31 on Health and safety on the work place)
- By consequence, Italian law on Safety on the work place, Decree 81/2008 of 9 April 2008 Decreto legislativo Attuazione dell'articolo 1 della legge 3 agosto 2007, n. 123, in materia di tutela della salute e della sicurezza nei luoghi di lavoro.
- Decreto Ministeriale 14 gennaio 2008 "Aprovazione delle nuove norme tecniche per le costruzioni" e la conseguente Circolare applicativa del 2 febbraio 2009 n. 617
- Regional and comunal legislation and rules
- Commission Document Management: Commission Decision of 23.1.2002 amending its Rules of Procedure [notified under document number C(2002)99] - Annex : Provisions on document management - OJ L 21 of 24.1.2002, p. 23
====>could you please attach the relevant extracts of these legal basis and provide it in english

12) Lawfulness of Processing:

Answering this question please also verify and indicate if your processing has to comply with articles 20 "Exemptions and restrictions" and 27 "Prior checking (by the EDPS)"

The processing is lawful under art. 5(a) and art.5(b) of Regulation (EC) 45/2001.

This processing falls under Art 27.

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

20) Recipient(s) of the Processing:

- Project Leaders of the stakeholder units
- Security Service
- Archives staff members / scanner operators of the stakeholder units
- Records managers of the stakeholder units
- System administrator(s) of the Electronic Document & Records Management Application
- National Authorities in case of inspection

21) Category(ies) of recipients:

- Project Leaders of the stakeholder units
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13/ retention policy of (categories of) personal data

Documents containing personal data in the annexes to the Operational Safety Plan ("Piano operativo di sicurezza"), as mentioned in art.18 are deleted from the system by automated procedure 3 months after the acceptance of the building / refurbishment / maintenance operation.

Staff member data is deleted when the person leaves the service.

Contractors data is deleted following the retention schedule of the Commission (SEC 2007/970) ten years after the end of contract. ==> could you indicate the type of classification for these documents in the CCL.

ANSWER TSA Records Manager:

We do suppose that the CCL refers to the Commission Common Retention List (CRL) SEC(2007)970. In this case, the documents are stored under 12.5.2. Please keep in mind that the CRL does NOT provide for the case of construction of new buildings; for this reason, the TSA follow the common rule of Italian construction: project documents are preserved until the building stands.

This does NOT apply to the POS, though we will keep the POS for 5 years after the end of the construction.

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)
(on justified legitimate request from the data subject)
(Please, specify the time limits for every category, if applicable)

22 b) Time limit to block/erase data on justified legitimate request from the data subjects

On a justified request from the Data Subject data will be modified, frozen or eventually erased in a maximum period of 14 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,

22 c) 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

Personal Data not kept or preserved for statistical purposes.

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

27) Legal foundation of transfer:

Only transfers to third party countries not subject to Directive 95/46/EC (Article 9) should be considered for this question. Please treat transfers to other community institutions and bodies and to member states under question 20.

Not applicable.

28) Category(ies) of Personal Data or Personal Data to be transferred:

Not applicable.

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

7) Description of Processing:

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This processing falls under Art 27.

Article 27.2.(a) Processing of data relating to health and to suspected offences, offences, criminal convictions or security measures,

Article 27.2.(a) Processing of data relating to health

Article 27.2.(b) Processing operations intended to evaluate personal aspects relating to the data subject,

n/a

Article 27.2.(c) Processing operations allowing linkages not provided for pursuant to national or Community legislation between data processed for different purposes,

n/a

Article 27.2.(d) Processing operations for the purpose of excluding individuals from a right, benefit or contract,

n/a

Other (general concept in Article 27.1)

n/a

17/ Comments

1) Date of submission:

10) Comments if applicable:

36) Do you publish / distribute / give access to one or more printed and/or electronic directories?

Personal Data contained in printed and/or electronic directories of users and access to such directories shall be limited to what is strictly necessary for the specific purposes of the directory.

If Yes, please explain what is applicable.

no

37) Complementary information to the different questions if applicable, including attachments to this notification which should not be public :

PLACE AND DATE:03/12/2010

DATA PROTECTION OFFICER: RENAUDIERE Philippe

INSTITUTION OR BODY:European Commission