

REGISTER NUMBER: 681

NOTIFICATION FOR PRIOR CHECKING

Date of submission: 29/04/2011

Case number: 2011-0402

Institution: European Chemicals Agency

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

European Chemicals Agency, Annankatu 18, 00121 Helsinki, Finland.

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

The tasks of the controller are exercised by the Head of Unit Human Resources, which is currently Mr Shay O'Malley. The actual processing is however carried out by the confidential counsellor who is an external processor.

3/ Name of the processing

Prevention of psychological and sexual harassment (this prior check focusses on the informal procedure and thus excludes the formal procedure and the selection procedure for confidential counsellors).

4/ Purpose or purposes of the processing

Personal data will be processed solely for the purpose of conducting the informal procedure, aimed at finding an amicable solution through informal discussions between the alleged victim and the other party with the mediation of the confidential counsellor.

5/ Description of the category or categories of data subjects

Staff members. This includes temporary agents, contract agents, SNE's, interims and trainees.

<p>6/ Description of the data or categories of data (<i>including, if applicable, special categories of data (article 10) and/or origin of data</i>)</p> <p>Contact information and details about professional and private life (very wide span of 'soft' data possible). The processing of data concerning health or sex life cannot be excluded either, but is justified as the Agency has a duty to provide a work environment free of any form of psychological or sexual harassment and thus complies with a legal obligation. In most cases the data subject has also given his/her explicit consent to the processing.</p>
<p>7/ Information to be given to data subjects</p> <p>The draft Management Board decision and draft Decision by the Executive Director regarding the prevention of psychological and sexual harassment in the European Chemicals Agency give detailed information to the staff of the Agency on the procedures and the processing of personal data. Moreover, a detailed privacy statement will be published on the Agency's intranet pages once these procedures have been formally adopted (see annexed documents).</p>
<p>8/ Procedures to grant rights of data subjects (<i>rights of access, to rectify, to block, to erase, to object</i>)</p> <p>The privacy statement explains the procedure to exercise the rights of data subjects. For this purpose, direct contact with the external processor is recommended, as the confidential counsellor will be the only person having access to the (full) file.</p>
<p>9/ Automated / Manual processing operation</p> <p>The confidential counsellor will process the personal data both manually and electronically.</p>
<p>10/ Storage media of data</p> <p>Paper (e.g. notes of confidential counsellor) and possibly an electronic file.</p>
<p>11/ Legal basis and lawfulness of the processing operation</p> <p>Articles 1d, 12, 12a and 24 Staff Regulations and Article 11 of the CEOS. Draft Management Board decision and draft Decision by the Executive Director regarding the prevention of psychological and sexual harassment in the European Chemicals Agency.</p> <p>The lawfulness of the processing is thus based on Article 5(a) of Regulation 45/2001, but complementary also on Article 5(d) & (e).</p>
<p>12/ The recipients or categories of recipient to whom the data might be disclosed</p> <p>While the Human Resources Unit and the harassment prevention coordinator may have access to the administrative data (e.g. identification data), only the confidential counsellor shall have access to the more confidential personal data collected (e.g. allegations and declarations made). The Executive Director will be informed of recurring cases when the name of an alleged harasser comes up in three different cases. This will only happen with the consent of the victim(s).</p>
<p>13/ retention policy of (categories of) personal data</p> <p>The data collected during an informal procedure will be stored for a maximum period of 5 years after the closure of the harassment case. However, for the purpose of detecting recurring cases, the confidential counsellor may store a summary of harassment cases, including basic facts and the identity of the alleged harasser for a period beyond this retention period, but not longer than the duration of the employment of the alleged harasser concerned.</p>

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 rights of blocking and erasure can be exercised at any point in time.

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,

The HR Unit shall publish an annual activity report containing statistics. Any production of statistics will be anonymous.

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

In exceptional circumstances data may be transferred to third parties who have to play a role in the harassment procedure (e.g. psychologists) or to judicial national authorities.

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,

It is possible that data related to health is processed during an informal procedure.

Article 27.2.(b)

Processing operations intended to evaluate personal aspects relating to the data subject,

The informal procedure may involve the evaluation of personal aspects.

Article 27.2.(c)

Processing operations allowing linkages not provided for pursuant to national or Community legislation between data processed for different purposes,

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Article 27.2.(d)

Processing operations for the purpose of excluding individuals from a right, benefit or contract,

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Other (general concept in Article 27.1)

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17/ Comments

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PLACE AND DATE: Helsinki, 29/04/2011

DATA PROTECTION OFFICER: Alain LEFEBVRE

INSTITUTION OR BODY: European Chemicals Agency