

(ONLY IN CASE OF PRIOR CHECKING BY EDPS : To be filled out in the EDPS' office)

NOTIFICATION FOR PRIOR CHECKING

DATE OF SUBMISSION: 08/10/2012

CASE NUMBER: 2012-0863

INSTITUTION: FUSION FOR ENERGY

LEGAL BASIS: ARTICLE 27-5 OF THE REGULATION CE N° 45/2001⁽¹⁾

INFORMATION TO BE GIVEN²

1/ NAME AND ADDRESS OF THE CONTROLLER

Mr Hans Jahreiss
C/ Josep Pla, n 2
Torres Diagonal. Edificio B3.
08019 Barcelona

2/ ORGANISATIONAL PARTS OF THE INSTITUTION OR BODY ENTRUSTED WITH THE PROCESSING OF PERSONAL DATA

Administration Department

3/ NAME OF THE PROCESSING

Data processing in the invalidity procedure before the Invalidity Committee

4/ PURPOSE OR PURPOSES OF THE PROCESSING

Data used for establishing invalidity of Fusion for Energy staff members, determining causes of such invalidity and determining the need for and frequency of follow-up medical examinations.

¹ OJ L 8, 12.01.2001.

² **Please attach all necessary backup documents**

5/ DESCRIPTION OF THE CATEGORY OR CATEGORIES OF DATA SUBJECTS

Fusion for Energy staff members

6/ DESCRIPTION OF THE DATA OR CATEGORIES OF DATA (*including, if applicable, special categories of data (Article 10) and/or origin of data*).

Administrative Data:

Name and surname, personnel number, date of birth, position and function group.

Health-Related Data:

Record of sick leave absences, information if data subject suffers from permanent invalidity, information if the invalidity arises from an accident in the course of the performance of the staff member's duties or public-spirited act or data subject risking his/her life to save another human being, information if the invalidity arises from an occupational disease.

Medical Data:

Results of the medical examination of data subject (diagnosis), medical data contained in the data subject's medical documents file kept by F4E Medical Control Officer (including medical data in the certificates), medical data in reports and certificates provided by the data subject himself/herself, results of consultation of the Invalidity Committee with outside medical experts.

7/ INFORMATION TO BE GIVEN TO DATA SUBJECTS

Data subject is informed of the start of the invalidity procedure by a letter / e-mail (Annex II)

A Specific Privacy Notice (Annex III) is always attached to the invitation e-mail/letter, informing the data subject on the purpose of the data processing in the course of the invalidity procedure, legal basis for the processing operation, categories of data processed, recipients of the data, time limits for storing the data and his/her rights related to data processing, including the right of recourse to the EDPS at any time. Data subjects are also informed that processing of their personnel data is realised in part on behalf of F4E by means of an external service provider (F4E Medical Control Officer).

Furthermore, a Procedural Handbook for Invalidity Committees (Annex I), providing detailed information on the invalidity procedure, is enclosed to the invitation e-mail/letter.

The Specific Privacy Notice and the Procedural Handbook for Invalidity Committees are published in the F4E intranet too.

8/ PROCEDURES TO GRANT RIGHTS OF DATA SUBJECTS
(Rights of access, to rectify, to block, to erase, to object)

Data subjects have the right of access to their personal data being processed. Data subjects concerned are also entitled to access their personal file, kept by F4E HR, where conclusions of the Invalidity Committee are stored and their medical files, kept by F4E Medical Control Officer, upon request.

Requests for access to medical or personal file shall be submitted to Data Controller, who should grant such access to the data subject entitled within 15 working days after the request's submission. Medical files can only be accessed by a data subject in the presence of the F4E Medical Control Officer, assisting data subject in data interpretation. Data subject concerned is entitled to receive copies of his/her medical file as well as copies of Invalidity Committee's conclusions.

Data subjects have the right to rectify any their data (except for medical data) that is inaccurate or incomplete. Data subjects have also the right to obtain from Data Controller blocking or erasure of their data.

When a data subject contests the accuracy of his/her data (except for medical data), the relevant data are immediately blocked for a period necessary for verifying the accuracy and completeness of the data, not exceeding 15 working days. When data subject requires data be blocked because s/he considers the processing unlawful or when s/he considers that data are no longer needed by F4E for the accomplishment of its tasks but have to be blocked for purpose of proof, F4E blocks the data as soon as possible and in any case not later than within 15 working days from the day the data subject's request reached F4E.

If a data subject requests data to be erased for s/he considers their processing unlawful, F4E erases the relevant data as soon as possible and in any case not later than within 15 working days from the day the data subject's request for erasure reached F4E.

Should the data subject has any queries, s/he shall address them in writing to the Data Controller at the following e-mail address: Resources-Controller@f4e.europa.eu or to the Data Protection Officer at the e-mail address: DataProtectionOfficer@f4e.europa.eu

All data subjects shall have a right to recourse at any time to the European Data Protection Supervisor: edps@edps.europa.eu

9/ AUTOMATED / MANUAL PROCESSING OPERATION

Manual: letter to the data subject, letter for a visit with a specialist, medical reports, summary medical report and conclusions of the Invalidity Committee are prepared manually.

Automated: no automated process

10/ STORAGE MEDIA OF DATA

Paper files:

Medical considerations of the Invalidity Committee, including medical data processed, are set out in a detailed summary report which is kept by the F4E Medical Control Officer in a medical file, in the

F4E Medical Service office. The other documents (letter to the data subject, letter for a visit with a specialist, medical reports) are also kept in the medical file.

The final decision of the Invalidity Committee is filed in a data subject's personal file.

Electronic files:

There are no documents in electronic version, only templates.

11/ LEGAL BASIS AND LAWFULNESS OF THE PROCESSING OPERATION

Legal basis:

Articles 59 (4) and 78 of the Staff Regulations

Articles 7, 8 and 9 of Annex II to the Staff Regulations

Articles 13, 14 and 15 of Annex VIII to the Staff Regulations

Articles 16, 32, 33, 91, 100, 101 and 102 of the Conditions of Employment of Other Servants

- read in conjunction with Article 6 of Council Decision 198/2007/Euratom and Article 10(2) of the Statutes annexed thereto.

Lawfulness:

Processing operation is necessary for the performance of F4E tasks on the basis of the F4E founding instrument or other legal instrument³ adopted on the basis thereof or in the legitimate exercise of official authority vested in F4E or in a third party to whom the data are disclosed

12/ THE RECIPIENTS OR CATEGORIES OF RECIPIENT TO WHOM THE DATA MIGHT BE DISCLOSED

Administrative and Health-Related Data:

- Medical Control Officer - (UTE Grupo Preving – Gabinete SME y Prevención S.L.) - external service provider - member of the Invalidity Committee
- Doctor appointed by the data subject - member of the Invalidity Committee
- Doctor appointed by common agreement between Medical Control Officer and doctor appointed by the data subject - member of the Invalidity Committee
- Outside experts who are not members of the Invalidity Committee – if a need for a consultation with such an expert arises
- Leave Manager(s) and their alternates (Human Resources officers)
- Data subject's immediate superior
- Human Resources group leader
- Head of Administration Department
- Secretary to the Head of Administration Department
- Heads of Departments (in case of unjustified absence)
- Secretaries to Heads of Departments
- Appointing Authority

³ Council decision 2007/198/ Euratom of 30 March 2007 establishing the European Joint Undertaking for ITER and the Development of Fusion Energy (F4E) and conferring advantages upon it (OJ L 90, 30.3.2007, p. 58)

- Director
- Assistant to the Director
- Fusion for Energy Legal Advisor: in case of a dispute
- Internal auditor and Court of Auditors: for auditing purposes only
- European Ombudsman: upon justified request
- Court of Justice of the European Union: upon justified request
- OLAF: upon justified request

Medical Data:

- Medical Control Officer - (UTE Grupo Preving – Gabinete SME y Prevención S.L.) - external service provider – member of the Invalidity Committee
- Doctor appointed by the data subject - member of the Invalidity Committee
- Doctor appointed by common agreement between Medical Control Officer and doctor appointed by the data subject - member of the Invalidity Committee
- Outside experts who are not members of the Invalidity Committee – if a need for a consultation with such an expert arises

13/ RETENTION POLICY OF (CATEGORIES OF) PERSONAL DATA

Medical files are kept for a maximum 30 years after the last medical document is inserted in the file in the light of Article 4(1)(e) of the Regulation (EC) No 45/2001.

13 A/ TIME LIMIT TO BLOCK/ERASE ON JUSTIFIED LEGITIMATE REQUEST FROM THE DATA SUBJECTS

For blocking:

- Immediately, when the data subjects contests the accuracy of his/her data (administrative data only) - the relevant data are blocked for a period necessary for verifying the accuracy and completeness of the data, or
- When data subject requires data be blocked because s/he considers the processing unlawful or when s/he considers that data are no longer needed by F4E for the accomplishment of its tasks but have to be blocked for purpose of proof - as soon as possible and in any case not later than within 15 working days from the day the data subject's request reached F4E.

For erasure:

- Data should be erased as soon as possible and in any case not later than within 15 working days from the day the data subject's request for erasure reached F4E.

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

Transfers of personal data to third countries within the meaning of Article 9 of the Regulation (EC) No 45/2001 may be necessary if a doctor – member of the Invalidity Committee (staff member's doctor or the doctor chosen by mutual agreement between the Medical Control Officer and the staff member's doctor) or an external expert consulted by the Committee reside in such a third country. In such a case, in accordance with Article 9 of the Regulation (EC) No 45/2001, a transfer will only take place to a country offering an adequate level of personal data protection. If the level of protection is not adequate, the data subject must give its consent to the transfer in accordance with Article 9(6)(a) of the Regulation.

As Switzerland is a member of the European Joint Undertaking for ITER and the Development of Fusion Energy (F4E) and its nationals may be F4E staff members, it is most probable that Switzerland will be the third state should a need for an external transfer arises. It should be thus noted that Article 29 Working Party recommends a conclusion that Switzerland ensures an adequate level of protection within the meaning of Directive 95/46/EC (Opinion 5/99 on the level of protection of personal data in Switzerland).

16/ THE PROCESSING OPERATION PRESENTS SPECIFIC RISK WHICH JUSTIFIES PRIOR CHECKING (*Please describe*):

AS FORESEEN IN:

1 Article 27.2.(a)

Processing of data relating to health and to suspected offences, offences, criminal convictions or security measures,

17/ COMMENTS

PLACE AND DATE: BARCELONA, 8 OCTOBER 2012

DATA PROTECTION OFFICER: ANGELA BARDENHEWER-RATING

INSTITUTION OR BODY: FUSION FOR ENERGY

Annexes:

- Annex I – Procedural Handbook Invalidity Committee
- Annex II - Invitation to meeting
- Annex III - Specific privacy notice_2.1
- Annex IV - Forms - Conclusions for Invalidity Commission
- Annex V - Form - Invalidity Committee meeting info to staff member
- Annex VI - Form - Periodical medical examination Invalidity
- Annex VII - Forms - Conclusions for Invalidity commission