

(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: 2012-0864

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 Litoral
Edificio B 3
08019 Barcelona

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

Administration Department

3/ NAME OF THE PROCESSING

Medical control examination during an absence due to sickness or accident

4/ PURPOSE OR PURPOSES OF THE PROCESSING

The purpose of the process is to ensure that sickness absence is justified and that its duration commensurates with the nature of the sick leave's cause.

¹ OJ L 8, 12.01.2001.

² **Please attach all necessary backup documents**

5/ DESCRIPTION OF THE CATEGORY OR CATEGORIES OF DATA SUBJECTS

Staff Members of Fusion for Energy

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, surname, date of birth, personal number and post held by the data subject
- home address and telephone number of the data subject

Health-related data:

- date and place of medical examination
- information if the data subject has undergone the examination
- information if the data subject is fit/unfit for work
- information if the absence has been justified / unjustified / not properly documented
- date of return to work (in the case of an unjustified absence)
- date before which data subject may not return to work (if the absence is justified)

Medical data:

- medical diagnosis (results of the medical examinations performed by Medical Control Officer and independent doctor)
- medical data in the medical documentation that data subject may provide to Medical Control Officer

7/ INFORMATION TO BE GIVEN TO DATA SUBJECTS

F4E Staff members are called in the medical control examination by phone followed by email/letter (Annex II). A Specific Privacy Notice (Annex IV) is always attached to the invitation e-mail/letter, informing the data subject on the purpose of the medical control examination, legal basis of 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 Guide to the medical control examinations (Annex III), providing information on the legal basis and the procedure to be followed in case of medical control examinations, is enclosed to the invitation e-mail/letter too.

Specific Privacy Notice, Guide to the medical control examinations as well as the rules on leave and absences (including sickness absences) are all published in the F4E intranet too. After each medical control examination, the data subject controlled is invited to sign a declaration that s/he has been fully informed of the decision taken by the Medical Control Officer (Annex I).

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 (administrative, health-related and medical data) being processed. For this purpose, they can contact the F4E Data Controller. Data subjects have the right to rectify any of 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 data subject contests the accuracy of his/her data (except for medical data, which may be questioned in a separate procedure, by referring the matter to an independent doctor), 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.

In case data subject contests the accuracy of medical data and does not agree with the conclusions of the medical control examination by F4E Medical Service, s/he or a doctor acting on his/her behalf may within two days submit to F4E a request that the matter be referred to an independent doctor for an opinion.

Should the data subject have any queries, s/he shall address them in writing to the Data Controller at the following 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

Automated: Medical data is stored in a computer with a specialised software called PREVENET. Administrative and health-related data are registered in an Excel table and in LEA MA electronic database.

Manual: Letters and notes are prepared manually, Medical Control Officer decision is stored in a paper file. Medical documentation provided by the data subject (if any) and the opinion from an independent doctor are also stored in a paper file.

10/ STORAGE MEDIA OF DATA

Electronic files:

Only the Medical Control officer has access to electronic medical data through a specialised software to manage medical data called PREVENET. Other data – only administrative and health-related data – are put into the LEA MA electronic database and an Excel file, stored on a local drive and password protected.

Paper files:

Documents containing medical and health-related data are stored in a filing cabinet in the F4E Medical Control office, accessible only through a magnetic card. Only the Medical Control officer has physical access to those documents.

11/ LEGAL BASIS AND LAWFULNESS OF THE PROCESSING OPERATION

Legal basis:

Article 59 (1) of the Staff Regulations

Article 16, 59 and 91 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.

Commission decision C(2004) 1597 introducing implementing provisions regarding absences on grounds of health or accident, and F4E decision (F4E/2008/O/RESO/0624)

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
- Independent doctor (in case data subject does not agree with the conclusions of the medical examination arranged by the Appointing Authority)
- Leave Manager(s)
- 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

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)

- Appointing Authority
- 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
- OLAF: upon justified request
- Court of Justice of the European Union: upon justified request.

Medical data:

- Medical Control Officer - (UTE Grupo Preving – Gabinete SME y Prevención S.L.) - external service provider
- Independent doctor (in case data subject does not agree with the conclusions of the medical examination arranged by the Appointing Authority and performed by the Medical Control Officer)

13/ RETENTION POLICY OF (CATEGORIES OF) PERSONAL DATA

Data is kept for 5 years. If a dispute or appeal proceedings have been started within that time, data is kept until the end of the proceedings.

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 (except for medical data, which may be questioned in a separate procedure, by referring the matter to an independent doctor) - the relevant data are blocked for a period necessary for verifying the accuracy and completeness of the data, not exceeding 15 days, or
- when a 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

N/A

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 - Administrative Report
- Annex II - Invitation to control visit
- Annex III - Guide to medical exams
- Annex IV - Specific privacy notice