NOTIFICATION FOR PRIOR CHECKING

DATE OF SUBMISSION: 01/11/2012

CASE NUMBER: 2012-0952

INSTITUTION: RESEARCH EXECUTIVE AGENCY (REA)

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

INFORMATION TO BE GIVEN[2]

1/ NAME AND ADDRESS OF THE CONTROLLER

WIM DE MEYERE
RESEARCH EXECUTIVE AGENCY (REA)
UNIT A.3.001 (HUMAN RESOURCES)
COV2 14/149
B - 1049 BRUSSELS

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

REA, Unit A.3.001 (Human Resources)

Co-controllers: REA Heads of Unit (including line managers)

Data may be processed by the Medical Service of the European Commission and the Office for Administration and Payment of Individual Entitlements (PMO).

3/ NAME OF THE PROCESSING

Work patterns, leave and presence management at the REA

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[1] OJ L 8, 12.01.2001.
[2] **Please attach all necessary backup documents**

4/   PURPOSE OR PURPOSES OF THE PROCESSING

This processing operation is established according to the Commission Decisions implementing provisions (adopted on 5/11/2010) on leave, part- time work, parental leave and family leave.

The goal of the flexitime policy is to make the working methods more flexible in order to make it easier to reconcile the demands of private life and work. It is designed to enable staff to achieve a better balance between their private and professional life within the framework of a transparent and fair system which aims to promote equal opportunities. Flexitime is also designed to enable the institution to manage attendance more effectively in accordance with work requirements and to manage human and budgetary resources more efficiently.

The personal data that is collected and processed in that framework is necessary in order to:

•   Manage work patterns
•   Manage leave (annual and special) and grant leave rights
•   Manage flexitime of presences

5/   DESCRIPTION OF THE CATEGORY OR CATEGORIES OF DATA SUBJECTS

Temporary agents and contract agents employed (or formerly employed) by the REA.

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

a.   Sysper2

The following categories of data are stored in Sysper2:

•   Administrative data (name, status, grade, telephone, date of birth, unique payroll number (NUP), data on contributions to the pension scheme, type of work pattern, start and end dates, etc.).

•   Family data (cohabitation recognised by the Administration, place of origin, identity and dates of birth of dependent children, etc.)

•   Working time data (dates and hours of presence, etc.)

b.   Supporting documents

Supporting documents are requested by the Commission Decision of 5/11/2010 on implementing provisions on leave, part- time work, parental leave and family leave (C(2010) 7495 final). Such documents may include proof of actual participation, (document certifying presence at the test, location, duration, etc.), birth certificates, medical certificates, etc.

c.   Special categories of data

Health related data may be processed in the context of sick leave, parental/family leave or other types of special leave (e.g. serious illness of spouse).

Data linked with the health status are sent to the Medical Service. By virtue of their functions, the doctors and other staff of this service are subject to the obligation of professional secrecy.

Normally, information regarding the specialization of the doctor should only be sent to the medical service. However, in the context of a medical appointment during working hours or a verification of a certain special leave (e.g. serious illness of spouse), the data subject must usually provide to the person in charge of leave (REA HR) a certificate which might indirectly disclose the specialization of the doctor.

Each member of the REA HR who processes administrative documents that may contain health-related data is subject to an obligation of secrecy equivalent to that of a health professional. The members of the REA HR also sign a declaration of confidentiality regarding the handling of health-related data.

The processing of health-related data in the REA is covered by a relevant notification under Article 25 [DPN-2009-01 ("Processing of Health Data by the REA")].

Another special category of data which may be processed is data which could indirectly reveal the sexual orientation of the data subject and his/her partner (e.g. when the data subject applies for leave in the case of marriage).

The REA HR processes only the information that is necessary for the purposes of managing the work patterns, leave, and presences. As far as it concerns the personal data of dependents or relatives, they are processed only for the purposes of administering working hours/ leave to the extent it is necessary for that purpose.

7/   INFORMATION TO BE GIVEN TO DATA SUBJECTS

A specific privacy statement relevant to the processing operation is published under the REA Intranet.

In addition, under the REA Intranet data subjects may find relevant and detailed information about the processing operation in the frame of frame of work patterns, leave and presence management at the Research Executive Agency (REA).

The specific privacy statement relevant to Sysper2 can be accessed through the application.

8/ PROCEDURES TO GRANT RIGHTS OF DATA SUBJECTS

Data subjects may have access to their personal data, including the supporting documents and may request for a rectification/blocking/erasure (where applicable).

Some information can be changed/corrected in Sysper2 directly by the data subjects.

Depending on the case, data subjects can also request access to the data the Agency keeps and exercise their rights upon either by sending an email to REA-TIME-MANAGEMENT@ec.europa.eu or by contacting their line manager and/or head of unit.

9/ AUTOMATED / MANUAL PROCESSING OPERATION

Work patterns, leave (annual, special, on personal grounds) and flexitime of presence are managed via Sysper2 (automated way). In that respect, time-related information is introduced directly by data subjects. This information is then validated by the respective line manager and head of unit (or hierarchical superior).

Supporting documents related to parental leave, family leave, special leave and applications for part-time working have to be sent by the data subject to the leave administrator (GECO) or the appointing authority, masking any information of a medical nature.

For family leave, the data subject has to send the medical certificate by post directly to the Medical Service. The Medical Service, for the medical aspect, provided its opinion (refusal or acceptance) to the Agency's HR.

Certain time-related data (generally provided by the data subjects) must be validated by a leave administrator (GECO) or the appointing authority, especially if they affect financial rights or the duration of rights (e.g. in the case of parental leave with an increased allowance and/or single-parent status).

a. Work patterns

Work pattern include part-time work, parental or family leave, credit time and leave on personal grounds.

• Part-time work

Part-time work provides the data subjects with the possibility of working fewer hours than those they would normally be supposed to work.

Data subjects may apply to Agency Appointing Authority for authorisation to work part-time (50%, 60%, 66.67%, 70%, 75%, 80% or 90%).

• Parental and Family leave

Parental leave: Data subjects are entitled to take parental leave during the first 12 years after a child's birth/adoption. Parental leave is different from maternity/paternity leave since the latter may be taken right after the birth of a baby. Parental leave is not remunerated. Data subjects will receive, however, a special "parental leave allowance".

Family leave: Data subjects can take family leave to look after a seriously ill or disabled spouse, a relative, a brother/sister, etc. Family leave is not remunerated. Nevertheless, Data subjects will receive, however, a special "family leave allowance".

• Time Credits

Part-time work may also be authorised in the form of time credits. In this case the data subject shall be paid as if he or she were working half time for a period of one or two months and shall be entitled to 10.5 full days or 21 half days of leave for each of the months on half-time pay.

• Leave on personal grounds

In exceptional circumstances, a data subject may be granted unpaid leave on personal grounds (Congé de Convenance Personnelle - CCP).

The data subjects may send their application/request for leave on personal grounds to the following functional mailbox: REA-STATUTORY-RIGHTS-AND-DUTIES-1@ec.europa.eu.

b.   Annual leave

Leave requests are introduced by the data subjects via Sysper2. They are then validated by the direct line manager (where applicable) and the respective head of unit (or hierarchical superior).

c.   Special leave

Data subjects may, on request, be granted special leave for issues such as (non-exhaustive list):
•   military service
•   marriage
•   birth of a child
•   illness of a spouse/partner, of a child or of a relative
•   death of a spouse/partner, of a child or of a relative
•   maternity leave
•   etc;

d.   Flexitime of presence

The main objective of flexitime is to give the REA staff the possibility to better reconcile the demands of private life and work. In addition to this, the required amount of working hours per week may be distributed unevenly over the five working days. Finally, and within certain limits, previously accumulated time credits maybe recuperated in the form of half or full days.

Presence hours are introduced by the data subjects via Sysper2. They are then validated by the direct line manager (where applicable) and the respective head of unit (or hierarchical superior).

10/   STORAGE MEDIA OF DATA

Data, in electronic format, is stored on the servers of the REA (limited access) and on the servers (email server, Sysper2) of the European Commission.

Supporting documents are stored in personal files which reside in locked cupboards.

11/   LEGAL BASIS AND LAWFULNESS OF THE PROCESSING OPERATION

The legal basis references which apply are the following:

a.   Work patterns

Part-time work

•   Article 55a and Annex IVa of the Staff Regulations of Officials of the European
Communities;
•   Articles 16 and 91 of the Conditions of Employment of Other Servants of the European
Communities;
•   Commission Decision of 5th November 2010 on Article 55a of the Staff Regulations and
Annex IVa thereto concerning part-time work (Document C (2010) 7573 final A.N. 72-2010 of 13
December 2010);
•   Decision of the REA Steering Committee of 20 October 2009 on the adoption of
implementing rules to the staff Regulations [REA/SC(2009) 10].

Parental or family leave

•   Articles 42a and 42b of the Staff Regulations of Officials of the European Communities;
•   Articles 16 and 91 of the Conditions of Employment of Other Servants of the European
Communities;
•   Commission Decision of 5th November 2010 on the general provisions for implementing
Article 42a of the Staff Regulations concerning parental leave (Document C(2010) 7572 final A.N.
72-2010 of 13 December 2010);
•   Commission Decision of 5th November 2010 on Article 42b of the Staff Regulations
concerning family leave (Document C(2010) 7494 final A.N. 72-2010 of 13 December 2010);
•   Decision of the REA Steering Committee of 20 October 2009 on the adoption of
implementing rules to the staff Regulations [REA/SC(2009) 10].

Leave on personal grounds

•   Articles 15, 37 and 40 of the Staff Regulations of Officials of the European Communities;
•   Commission Decision on measures concerning leave on personal grounds for officials and
unpaid leave for temporary and contract staff of the European Communities of 28 April 2004
(C(2004) 1597);
•   Decision of the REA Steering Committee of 20 October 2009 on the adoption of
implementing rules to the staff Regulations [REA/SC(2009) 10];
•   Articles 11, 17, 81 and 91 of the Conditions of Employment of Other Servants of the
European Communities.

b.   Annual leave and special leave

•   Commission Decision of 5th November 2010 introducing implementing provisions on leave
(C(2010) 7495 final - A.N. 72-2010 of 13th December 2010);
•   Commission Decision of 28 April 2004 introducing implementing provisions on leave
(C(2004) 1597);
•   Articles 42, 57 to 61 and Annex V Staff Regulations of Officials of the European
Communities;

- Articles 16,18 and 91 of the Conditions of Employment of Other Servants of the European Communities;
- Decision of the REA Steering Committee of 20 October 2009 on the adoption of implementing rules to the staff Regulations [REA/SC(2009) 10].

c.   Flexitime

- Guide to flexitime [SEC(2006)1796]
- Article 55 of the Staff Regulations of Officials of the European Communities
- Decision of the REA Steering Committee of 20 October 2009 on the adoption of implementing rules to the staff Regulations [REA/SC(2009) 10].

d.   Other

The processing of personal data is lawful, according to Article 5 of the Regulation 45/2001.

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

Data may be disclosed to the following recipients:

REA

- Heads of unit and Line managers (e.g. Head of sector)
- Authorised personnel of the REA Human Resources
- Competent Appointing Authority (the Director of the Agency)
- Head of Department "Administration, Finance and FP7 Support"
- Internal services (e.g. legal service, internal audit)

Normally, the data concerning leave are not communicated to the Director or Head of Head of Department ("Administration, Finance and FP7 Support") in the context of the correct implementation of the leave system. Such transfers are required only in the context of deciding whether the absence is justified or not and of drawing any administrative or disciplinary conclusions. In all other cases, the intervention of the line manager or Head of Unit is normally sufficient.

European Commission

- Medical Service (for administrative documents containing data relating to health)
- Office for Administration and Payment of Individual Entitlements (PMO).

Other potential recipients

- European Ombudsman
- Civil Service Tribunal
- Court of First Instance
- General Court of the European Union
- European Court of Justice
- Court of Auditors
- European Data Protection Supervisor

- OLAF
- DG HR/IDOC

This transmission will be restricted to the information necessary for the competent entity to carry out its task. The recipients will be reminded not to process the data received for any purpose other than the one for which they were transmitted to them, as required under Article 7(3) of the Regulation.

If the transfer entails a change of purpose, it is expressly provided for in law and the data subject is informed of it.

In case a staff member of the Agency moves to another to executive Agency or another EU institution, data residing under Sysper2 may be automatically transferred.

13/   RETENTION POLICY OF (CATEGORIES OF) PERSONAL DATA

a.   Sysper 2

Data stored under Sysper2 will be retained as follows (according to the Specific Privacy Statement found under Sysper 2):

Data are generally kept for five years (more in cases of appeal).

The keeping of data relating to days of annual leave is justified in particular for the carry-over of days not taken to the following year, but will be limited to two years (at the beginning of calendar year "n" the data for year "n-3" will be suppressed).

Data on part-time work, parental and family leave are generally kept at least until the end of active service in the Commission (in the REA in that respect) or even beyond that period (since they relate to a subsisting entitlement and may be appealed against).

Data concerning flexitime are kept during the on-going calendar year. They will be suppressed after the closure of the procedure of carry-over of days of annual leave not taken to the following year, and at the latest at the end of the month of March of that following year.

In case where the registration of daily working hours is done on the level of the head of unit/sector and based on intermediate means, these have to be destroyed after the validation of the monthly balance by the head of unit, and the latest by the 15th of the following month.

Flexitime data on staff members who wish to opt-out of the flexitime scheme are deleted after the end of the calendar year.

If data are kept longer than the above-mentioned periods, they will be rendered anonymous (the implementation of this action is at the moment under study).

b.   Supporting documents

Supporting documents are kept for a maximum period of three years except in case of an appeal. In this case, the data will be kept for as long as required.

c.   Leave

Data related to sick leave will be retained for a period of three to five years (maximum).

In case of leave on personal grounds, data are retained for the entire career of the data subject in order to keep track when the total time granted reaches the maximum permitted.

In other cases (e.g. leave because of a death of a family member) it may be necessary to keep at least the document with the name of the deceased person for the entire career of the data subject so as to avoid the possibility of any similar leave requests for the same deceased person in the future.

Certain special leave (e.g. in the context of credit-time) may have an effect on the calculation of the pension and may require the conservation of the data for the entire career of the data subject.

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

•   Time limit to rule on a request: 15 working days (beginning from the reception of the request).
•   Blocking period: On case-by-case basis. Immediately if applicable, (maximum delay of 10 working days).
•   Erasure Period: Maximum delay of 5 working days after the ruling on the request (if applicable).
        Requests for blocking and/or erasure under Sysper2 are transferred by the data controller to the system owner of Sysper2.

In Sysper 2, data cannot be blocked selectively. In such cases, a specific procedure is followed in the REA. Each time blocking is requested, for checking purposes two copies of a "snapshot photo" of the state of the data (by printout, saving or burning a CD-ROM) are made: one for the data subject and one for the data controller. At the same time, it is made clear in the system that a procedure aiming at blocking data has been launched.

14/   HISTORICAL, STATISTICAL OR SCIENTIFIC PURPOSES

Reports may be created for statistical purposes but in a form that does not permit identification.

15/   PROPOSED TRANSFERS OF DATA TO THIRD COUNTRIES OR INTERNATIONAL ORGANISATIONS

Not applicable

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

- Other (general concept in Article 27.1)

17/ COMMENTS

Enclosures:

(1) Memorandum of Understanding (MoU) of 15 July 2011 on ICT Services between the Research Executive Agency (REA) and the Directorate-General for Informatics of the European Commission (DG DIGIT).

(2) Service-Level Agreement (SLA) of 22 December 2010 concerning the collaboration of the Research Executive Agency (REA) with the Office for Administration and Payment of Individual Entitlements (PMO)

(3) Service catalogue DIGIT for Executive and Regulatory Agencies, Institutes, Joint undertakings

(4) SLA for Sysper2 (29 November 2010)

(5) Declaration of Confidentiality (Processing of health related data)

(6) Specific Privacy Statement

PLACE AND DATE: BRUSSELS, 31 OCTOBER 2012

DATA PROTECTION OFFICER: EVANGELOS TSAVALOPOULOS

INSTITUTION OR BODY: RESEARCH EXECUTIVE AGENCY (REA)