

REGISTER NUMBER: 949

## NOTIFICATION FOR PRIOR CHECKING

Date of submission: 11/02/2013

Case number: 2013-0171

Institution: EFSA – European Food Safety Authority, Parma

Legal basis: article 27-5 of the regulation CE 45/2001<sup>(1)</sup>

*(1) OJ L 8, 12.01.2001*

## INFORMATION TO BE GIVEN<sup>(2)</sup>

*(2) Please attach all necessary backup documents*

1/ Name and address of the controller

Mr. Olivier Ramsayer, Director of Resources and Support (RESU)

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

Staff members at the Service Desk of EFSA, for the sole purpose of providing technical support and exceptionally HUCAP in charge of staff leave management

3/ Name of the processing

**Badge use as an informative tool to staff on office presence in the context of Time Tracking**

4/ Purpose or purposes of the processing

The access to the jobholder's own clocking data is aimed as an informative tool for the jobholder to monitor his/her office presence, which may be useful as a reference when the jobholder completes his/her monthly Time Tracking timesheets, even though the clocking data cannot be assimilated with effective working time as e.g. specific work situations or equivalent activities (e.g. training) may be performed outside the EFSA building.

*Note:* In this regard it is relevant to add the following:

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- The personal data processing at hand *is related to* the EFSA Time Tracking / Flexitime system, however it does not alter or affect this processing operation directly as such. It is intended to offer an additional and separate informative tool to the jobholder in order to monitor his/her office presence, which may be useful as a reference when the jobholder completes his/her monthly Time Tracking timesheets ;
- On the need for prior checking with the EDPS of the processing operation at hand, further information is provided in point 16 below ;
- Regarding the EFSA Time Tracking / Flexitime system, it is worth specifying that the system was notified to the DPO when it was introduced in 2008. On that occasion, the EFSA-DPO consulted with the EDPS on the need for prior checking, to which the EDPS answered that this is not the case. This viewpoint was further confirmed in the EDPS prior checking opinion case 2009-0455 concerning EFSA Leave Management, issued on 01 December 2009. Finally, the fact that the EFSA Time Tracking / Flexitime system in its current shape is not subject to EDPS prior checking can be concluded from section 1.2, page 3 of the EDPS Guidelines on leave and flexileave, issued in December 2012 (case 2012-0158). (The EFSA Time Tracking / Flexitime system as introduced in 2008 still continues to be operated at present without substantial changes compared to the initial version).

5/ Description of the category or categories of data subjects

Statutory staff of EFSA (Officials, Temporary Agents, Contract Agents) as well as Seconded National Experts (END)

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

Information made available by means of the IT tool concerns the records of the badge readers installed at the main entrance doors to the EFSA building. Information of badge readers installed at other places in the EFSA building is not made available in the system. More specifically, the following information is made available by means of the IT tool (hereafter generically referred to as '*clocking data*'):

- for each working day, the precise time when the staff member first enters the EFSA building using his/her badge, together with the badge ID code from which the user is identifiable ;
- the precise time of the staff member for the last time leaving the EFSA building on the same day. Temporary absences during the working day registered in intermediate in/out clocking is not made available in the system.

7/ Information to be given to data subjects

A Staff Information Note is available as draft: after adoption and introduction of the system it will be made available on the EFSA Intranet Portal. The Note includes a specific privacy statement (see **Annex II – Staff Information Note - draft**)

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

Access to the clocking data in the IT tool is provided to jobholders/data subjects by means of a password authentication. Each jobholder can only access his/her individual clocking data and the data are not transferred to any other recipients such as line managers, with the exception of the EFSA Service Desk for the sole purpose of providing user support. A practical instruction how jobholders can consult their clocking data is provided in the (draft) Staff Information Note (**Annex II**). It is worth to specify that at the moment of this notification no prototype of the system is existing.

9/ Automated / Manual processing operation

It is intended to make the data processing operation automated (the system itself is inexistent at present).

10/ Storage media of data

The data collected will be made available by means of the IT tool and the data are stored electronically on the EFSA servers

11/ Legal basis and lawfulness of the processing operation

The matter is related to the working conditions of officials and other servants of the European Union, as defined in Title IV of the Staff Regulations. The processing operation is covered by a (draft) Decision of the EFSA Executive Director – **Annex I** (*draft*).

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

- The individual jobholder (Official, TA, CA, END) related to his/her own clocking data by means of the IT tool requiring username & password authentication ;
- The Service Desk of EFSA, for the sole purpose of providing technical support to users related to the IT tool ;
- In the exceptional situation that an administrative inquiry or disciplinary proceeding is opened against a staff member on which fact the person shall be notified in advance, clocking data may be made available to the investigation panel or disciplinary board in case these are relevant for the investigation or disciplinary proceeding in question.

13/ retention policy of (categories of) personal data

Clocking data are stored in the system and will be accessible to the jobholder via the EFSA Intranet Portal for a period of two months. This retention period matches the time frame during which the line manager may grant flexi leave compensation if the jobholder has approved Time Tracking timesheets of extra working time accumulated during the previous month. The retention period of the clocking data may be prolonged in the context of an administrative inquiry or a disciplinary proceeding.

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)

Within 5 working days upon receipt of a legitimate request.

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*):

**X Article 27.2.(b)**

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

*Explanation:* As referred to in the EDPS guidelines concerning the processing of personal data in the area of leave and flexileave and with reference to Article 27(2)(b) of the Regulation, the objective characteristics of the informative tool may lead to confirming the existence of an implicit purpose of evaluating a person in case there is a suspicion of misconduct.

Article 27.2.(c)

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

*Note:* Although the informative tool for the jobholders/data subjects is based on data originating from the building security and access control system of EFSA supported by the access badges, there is no material linkage to the EFSA Time Tracking / Flexitime system and the data processing is therefore considered not to fall within Article 27(2)(c) of the Regulation. The specific point on which EFSA would appreciate further clarification and confirmation from the EDPS in the context of the prior checking process, concerns the compatibility of use of the badging information as an informative tool for the jobholders related to their proper time tracking. In EFSA's view, the relevant EDPS guidelines (i.e. chapter 7) are not entirely decisive on this point.

Article 27.2.(d)

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

**X Other (general concept in Article 27.1)**

*Explanation:* As referred to in the EDPS Guidelines on Leave and Flexileave (case 2012-0158), the use of data from magnetic badges may as such entail specific risks to the rights of data subjects

17/ Comments

N/A

**Supporting documents:**

**Annex I** – Decision of the Executive Director concerning staff access to EFSA’s premises (*draft*)

**Annex II** – Staff Information Note (*draft*)

**Annex III** – Notification of the controller to the DPO