

REGISTER NUMBER: 982

NOTIFICATION FOR PRIOR CHECKING

Date of submission: 02/04/2013

Case number: 2013-0351

Institution: ACER

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

Agency for the Cooperation of Energy Regulators (hereinafter referred to as the "Agency")
Trg republike 3
1000 – Ljubljana
Slovenia

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

The department in charge of processing of the personal data is the Administration Department, and within that department more specifically Human Resources section.

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3/ Name of the processing

- Record of absence (sick leave and special leave) and related supporting document
- Establishment of annual leave entitlements and recording of staff annual leave

4/ Purpose or purposes of the processing

The purpose of data collection and processing is to implement Title IV, Chapter 2, and, in particular, Articles 57-60, and Annex V, and, in particular, Articles 1-7 of the Staff Regulations (hereinafter referred to as "SR") and Conditions of Employment of Other Servants of European Communities (hereinafter referred to as "CEOS").

This processing and purposes are further governed by the implementing rules of the Commission adopted by analogy by the Agency in Decision AB No 09/2011 on the adoption of implementing rules to the Staff Regulations. The implementing rules concern in particular the following Commission decisions C-2004-1597, C-2010-7495, C-2010-7572, C-2010-7573 and C-2010-7479 for temporary and contract agents.

The same rules apply by analogy to seconded national experts (hereinafter referred to as "SNEs"), pursuant to Articles 14 and 15 of Decision AB No 02-2011 laying down the rules on the secondment of national experts to the Agency for the Cooperation of Energy Regulators.

Data is processed for the purposes of management of leave of staff members and seconded national experts. These data may also be used for further processing in the context of the invalidity procedure, as foreseen in Article 59 (4) of the Staff Regulations.

5/ Description of the category or categories of data subjects

The categories of persons concerned are temporary and contract agents employed by the Agency and national experts which are seconded to the Agency.

6/ Description of the data or categories of data

The name and surname of staff members or SNEs are collected in each case.

In addition, the following data is collected, subject to the type of process:

- For annual leave the following data is also collected: hierarchical supervisor's name and surname.
- For leave entitlements the following data is also collected: age, grade and distance from place of origin / employment.
- For special leave the following data is also collected: reason for leave, distance from place of travel (in case of additional travel time), certificates or other supporting documents confirming right to special leave.
- For sick leave longer than three days the following data is also collected: certificate of illness.
- For parental/family leave and part time work data on reason for such arrangement are collected and

may include name of child.

- For the special and sick leave records data described in Article 10 of Reg. 45/2001 relating personal and health data of relatives of the data subject is processed.

7/ Information to be given to data subjects

As mentioned in section 4 above, the rights and personal circumstances determining their rights and entitlements relating to annual leave entitlements are laid down by the relevant provisions in the SR and CEOS, Decision AB No 09/2011 and in Decision AB 02-2011.

The Staff Members and SNEs are informed about their rights in the welcome pack sent to the newcomers and in the ACER manual available on the ACER intranet to all staff and SNEs. The SR, CEOS and the two relevant AB Decisions are also available on the shared drive of the Agency.

The staff members and seconded national experts are informed at the induction training that the HR section is processing all data relating to all leave, and that their hierarchical supervisor is the approver of annual leave, whom must be notified about other leave as well.

When a record of annual leave is created, the staff member or SNE concerned is notified by email that the leave request has been submitted to the supervisor. Depending on the supervisor's action, the staff member or SNE is notified by mail of the approval or rejection of the request.

When the staff member is absent on medical grounds, the HR team introduces the record, and the person concerned is notified about the new record, its type and whether a medical certificate is necessary.

Upon application of special leave request, a similar notification is sent to the person concerned. The notification contains information that the leave is approved by HR upon submitting relevant supporting document, and the deadline for such action.

Whenever the record is added, the person concerned receives confirmation by email of such action.

8/ Procedures to grant rights of data subjects

Every staff member or SNE has access to see the records relating to him/her at any given time via the HR portal (HR tool – View my entitlements), and consult his/her entitlements and taken leave days/special leave and illness days. Upon justified request of the person concerned, annual leave, special leave or sick leave records can be deleted or amended by the HR team.

9/ Automated / Manual processing operation

Depending on the type of processing the following applies:

Annual leave: this is a fully automated processing operation.

Special leave: this is a partially automated processing operation. The person concerned still needs to scan the relevant certificate and attach it to the record.

Sick leave: this is a partially automated processing operation. The person concerned still needs to scan the relevant certificate in case of absence longer than three days and attach it to the record.

Establishment of leave entitlement: this is a partially automated processing operation. The HR team introduces the various entitlements (basic, age, grade, travelling time) based on information obtained from different sources. They are as follows:

- Basic entitlement – start date of employment / secondment

- Age entitlement – birth date of the person concerned
- Grade entitlement – recruitment grade
- Travelling time – distance from the place of origin / employment

The processing operation of part time work application and family/parental leave is manual, based on paper forms.

10/ Storage media of data

All data on annual and special leave is stored in a SharePoint database. Other data relating to entitlements, family/parental leave and part time work is stored in the personal file of the person concerned.

11/ Legal basis and lawfulness of the processing operation

Leave in general is covered under Chapter 2 of Title IV: Working conditions of officials of the Staff Regulations (Articles 57-60), applied by analogy to other servants of the European Communities, which are defined in Titles III & IV of the Staff Regulations:

- Article 57 SR(annual leave), Annex V SR(special leave), Article 58 SR(maternity leave), sick leave/family leave Article 59 SR (sick leave/family leave) and Articles 15, 37 and 40 SR (leave on personal grounds and unpaid leave) form the specific legal basis of these processing operations.

- Furthermore, Articles 11, 16 to 18, 58, 81 and 91 of CEOS provide rights to leave for those individuals who are not covered by the Staff Regulations, but are nonetheless employed as temporary and contract agents.

This processing and purposes are further governed by the implementing rules of the Commission adopted by analogy by the Agency in Decision AB No 09/2011. The implementing rules concern in particular the following Commission decisions: C-2004-1597, C-2010-7495, C-2010-7572, C-2010-7573 and C-2010-7479.

The same rules apply by analogy to SNEs pursuant to Articles 14 and 15 of Decision AB No 02-2011.

The processing is necessary in order to fulfill the tasks of the HR section related to the implementation of the abovementioned legal basis and to deliver the rights of a temporary / contract agent or seconded national expert to the person concerned.

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

Apart from the person concerned, all leave entitlement and leave data is available and can be accessed by the HR team. Also the IT assistant maintaining the database has access to the leave entitlement and leave data.

Upon creating an annual leave request, the data is disclosed to the hierarchical supervisor.

The sick leave and special leave data are available only to HR team.

The data on unused days from annual leave entitlement are made available to AHCC (Director) for the purposes of the carry over exercise. Furthermore partial data on excessive unjustified absences on medical grounds can be made available to AHCC (Director) in special circumstances.

13/ Retention policy of (categories of) personal data

All data related to annual and special leave is stored in the SharePoint database. Forms for family leave and parental leave are stored in personal files of individual concerned. For annual and sick leave data is stored for three years, which can be extended to cover the period when a dispute or appeal is underway. Other leave (data on part-time, parental and family leave) is retained until termination of employment and beyond in the

cases in which any right of the data subject still persists or there is an ongoing appeal.

13 a/ time limits for blocking and erasure of the different categories of data (on justified legitimate request from the data subject)

There are no time limits for erasure or amendment of data relating to the individuals leave, upon justified legitimate request within the calendar year.

14/ Historical, statistical or scientific purposes

General data on staff absence is collected, but does not contain any personal data.

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

Not applicable

16/ The processing operation presents specific risk which justifies prior checking

The special leave request must contain a certificate confirming the eligibility to the type of leave requested. The eligibility is subsequently verified by the HR Officer or HR Assistant. Sick leave records of a period longer than 3 days must contain a medical certificate relating to the health of the person concerned.

Prior checking of data relating to entitlements is done at the recruitment stage when the birth date is confirmed with original personal documents. The eligibility to the grade is verified by original certificates of employment. Furthermore the place of origin and the distance to thereof from place of employment is established by Paymasters Office (PMO.1) on the basis of Commission decision C-2004-1364 of 15 April 2004.

17/ Comments

PLACE AND DATE: Ljubljana, Slovenia; 27 March 2013

DATA PROTECTION OFFICER: Paul Martinet

INSTITUTION OR BODY: Agency for the Cooperation of Energy Regulators