

*(To be filled out in the EDPS' office)*  
**REGISTER NUMBER: 1226**

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**NOTIFICATION FOR PRIOR CHECKING**

**DATE OF SUBMISSION: 11/04/2014**

**CASE NUMBER: 2014-0434**

**INSTITUTION: EFCA - EUROPEAN FISHERIES CONTROL AGENCY**

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

**INFORMATION TO BE GIVEN<sup>2</sup>**

1/ NAME AND ADDRESS OF THE CONTROLLER

European Fisheries Control Agency, Avda. Garcia Barbon, 4, E-36201 Vigo

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

For questions related to the EIR system:  
Unit B – Capacity Building  
Data Monitoring and Networks  
Contact person: Patrick Allen, Senior Project Manager

For questions related to operational coordination:  
Unit C – Operational Coordination  
Contact person: Miguel Nuevo, Desk Officer for Training and Assistance

3/ NAME OF THE PROCESSING

Electronic Inspection reports related to Joint Deployment Plans (JDPs) in EU waters

4/ PURPOSE OR PURPOSES OF THE PROCESSING

Ensure monitoring compliance with the applicable EU legislation.

In the context of operational coordination, electronic inspection reports concerning inspections carried out under JDPs in EU waters are provided by Member States' authorities to EFCA during

<sup>1</sup> OJ L 8, 12.01.2001.

<sup>2</sup> **Please attach all necessary backup documents**

JDPs.

Use of anonymised data for risk analysis and/or training purposes.

EFCA provides access to the electronic inspection reports to other Member States in the context of a JDP.

#### 5/ DESCRIPTION OF THE CATEGORY OR CATEGORIES OF DATA SUBJECTS

Data Subject list as per Data Elements contained within Annex XXVII of Commission Implementing Regulation (EU) No 404/2011:

Vessel Master  
Vessel Crew member(s)  
Vessel Owner(s)  
Vessel Beneficial Owner(s)  
Vessel Owners Representative(s)  
Vessel Charterer(s)  
Vessel Agent(s)  
Observer(s)  
Transporter(s)  
Driver(s)  
Registered Buyer(s)  
Inspector in charge  
Inspector(s) other  
Reporting Official(s)

#### 6/ DESCRIPTION OF THE DATA OR CATEGORIES OF DATA

*(including, if applicable, special categories of data (Article 10) and/or origin of data)*

Name, address and signature of the Data Subjects (point 5 above) as contained in the electronic inspection reports.

#### 7/ INFORMATION TO BE GIVEN TO DATA SUBJECTS

A data protection notice (Annex) is published on EFCA's website, on the site Operational Coordination.

[http://www.efca.europa.eu/pages/home/activities\\_operational2010.htm](http://www.efca.europa.eu/pages/home/activities_operational2010.htm)

#### 8/ PROCEDURES TO GRANT RIGHTS OF DATA SUBJECTS

*(Rights of access, to rectify, to block, to erase, to object)*

EFCA has no influence on the content of the electronic inspection reports which are completed by the Inspecting Member State and then forwarded to EFCA. EFCA merely functions as recipient of the reports.

Apart from that, EFCA does not have the competence for any follow up of alleged infringements made by fishing vessels and laid down in an inspection report. This is the responsibility of

Inspecting Member States and Flag Member States (Title VII, Chapters III and IV of Council Regulation (EC) No 1224/2009). The inspection report serves as evidence in court and can therefore not be modified (Articles 76 and 77 R. 1224/2009).

Thus the rights mentioned in Articles 13 to 18 of R. 45/2001 are restricted for the present data processing operation (Art. 20 (1)(a) and (e) and Art. 5(b) R. 45/2001) with regard to electronic inspection reports containing alleged infringements.

Apart from that, EFCA does not “own” the electronic inspection reports which are third-party documents (of the inspecting Member State) and therefore EFCA cannot give access to them without having consulted the third party and having received a positive answer in accordance with Art. 4(4) of Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents.

EFCA will ensure that any restrictions to the right of access to the information contained in the electronic inspection report on the basis of Art. 20(1)(a) and (e) do not exceed what is necessary to achieve the respective objective. In particular, when consulting the Member State who carried out the inspection as regards access to the relevant inspection report, EFCA will stress the importance of respecting the right of access to personal data of the data subject concerned, to give full effect to Art. 13 of R. 45/2001.

In all cases, the right of access is already granted by providing the master of the fishing vessel who signs the report with a copy of the inspection report. The report is also signed by the inspectors.

#### 9/ AUTOMATED / MANUAL PROCESSING OPERATION

Electronic inspection reports provided by Member States’ authorities and Union inspectors related to fishing activities of areas in EU waters covered by JDPS are received and processed by the EFCA EIR system.

The information is used by EFCA staff with a need to know for operational coordination purposes. Also, parts of the information (excluding personal data) contained in the electronic inspection reports may be extracted and used for risk analysis and/ or training purposes by EFCA staff with a need to know.

EFCA provides access to the electronic inspection reports to other Member States, via an Access Management system, in the context of a JDP.

#### 10/ STORAGE MEDIA OF DATA

The electronic data is stored securely within the EFCA EIR system.

#### 11/ LEGAL BASIS AND LAWFULNESS OF THE PROCESSING OPERATION

Processing is necessary for compliance with the following legal obligation of EFCA: The reception of electronic inspection reports and the provision of access to Member States to those reports for the purpose of operational coordination in the context of joint deployment plans is provided for by Art. 5(2), 13 and 16 of Council Regulation (EC) No 768/2005 and Art. 118(2), second sentence of Commission Implementing Regulation (EU) No 404/2011.

Lawfulness of the processing:

A reference to compliance of the processing operations with the EU data protection laws (Directive 95/46/EC and Regulation (EC) No 45/2001) is included in all Joint Deployment Plans:

*“The personal data processed during the planning, implementation and review of the Joint Deployment Plan shall benefit from the protection as is accorded by Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data (Footnote: OJ L 281, 23.11.95, p. 31.) and Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (Footnote: OJ L 8, 12.1.2001, p.1.)”*

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

Within EFCA, access to personal data is limited to the EFCA staff with a need to know (including System Administrators).

EFCA provide access to the electronic inspection reports to all Member States, in the context of a JDP.

13/ RETENTION POLICY OF (CATEGORIES OF) PERSONAL DATA

The electronic inspection reports shall be kept 3 years, see also Art. 118(3) Regulation (EU) No 404/2011.

13 A/ TIME LIMIT TO BLOCK/ERASE ON JUSTIFIED LEGITIMATE REQUEST FROM THE DATA SUBJECTS  
(Please, specify the time limits for every category, if applicable)

15 days from receipt of 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)

Electronic inspection reports received may contain alleged infringements by the fishing vessel

(master/ owner) of applicable EU legislation. The electronic inspection reports serve as evidence in the courts of the concerned state(s).

AS FORESEEN IN:

Article 27.2.(a)

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

Article 27.2.(b)

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

Article 27.2.(c)

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

Article 27.2.(d)

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

Other (general concept in Article 27.1)

17/ COMMENTS

PLACE AND DATE: VIGO, 8 APRIL 2014

DATA PROTECTION OFFICER: RIEKE ARNDT

INSTITUTION OR BODY: EFCA - EUROPEAN FISHERIES CONTROL AGENCY