

(To be filled out in the EDPS' office)
REGISTER NUMBER: 1472

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NOTIFICATION FOR PRIOR CHECKING

DATE OF SUBMISSION: 11/09/2017

CASE NUMBER: 2017-0803

INSTITUTION: EC- DG SANTE

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

INFORMATION TO BE GIVEN²

1/ NAME AND ADDRESS OF THE CONTROLLER

CONTROLLER : LOOPUYT PHILIPPE
E-MAIL: Philippe.Loopuyt@ec.europa.eu

DELEGATE : MARIN ERIC

E-MAIL: Eric.Marin@ec.europa.eu

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

THE EUROPEAN COMMISSION
DG SANTE - DIRECTORATE DDG2.G

3/ NAME AND DESCRIPTION OF THE PROCESSING

NAME: Administrative Assistance and Cooperation System (AAC system)

The AAC is a secure electronic system for the exchange of information between competent authorities in the Member States, in the European Economic Area (EEA) countries and Commission services for the purpose of administrative assistance and cooperation obligations under Regulation (EC) 882/2004 to ensure the verification of compliance with EU food and feed law. The AAC system is to be used by national competent authorities and the Commission to exchange information on: possible cross-border cases of non-compliance with food/feed law (type/description), which

¹ OJ L 8, 12.01.2001.

may include information on individuals or other third-parties different from food business operators associated with a possible case of non-compliance with food/feed law; animal or goods associated with a possible case of non-compliance; business operators responsible or suspected of a case of non-compliance with food/feed law; On the basis of Article 40 of Regulation (EC) 882/2004, the Commission is tasked with the coordination of Member States actions where they fail to agree on how to address cross-border non-compliance or where such non-compliance is recurrent or widespread. Information contained in the AAC includes some personal data of individuals, i.e.: AAC users: contact details of natural persons belonging to national competent authorities, and of nominated Commission staff. This information is registered by Directorate-General for Health and Food Safety (DG SANTE) services in order to give AAC users access to the system. Food/feed business operators (or authorised representatives) and individuals or other third-parties different from food business operators associated with a possible case of non-compliance with food/feed law. These personal data are entered in the AAC by national competent authorities and by the Commission. Article 10 of the attached Commission Decision explains in which cases Member States and the Commission shall be regarded as Controllers. It further specifies in which cases Member States and the Commission may respectively restrict the rights and obligations under Article 6(1), Article 10, Article 11(1) and Article 12 of Directive 95/46/EC as necessary to safeguard the interest referred to in Article 13(1)(d) and (f) of that Directive and the rights and obligations under Article 4(1), Article 11, Article 12(1), and Articles 13 to 17 of Regulation (EC) No 45/2001 where such restriction constitutes a necessary measure to safeguard the interests referred to in Article 20(1)(a) and (e) thereof during the period in which actions are being planned or performed to verify compliance with food or feed law or to ensure the enforcement of food or feed law in the specific case to which the information relates. Article 11 establishes a retention period of maximum five years after the closure of the administrative assistance and cooperation procedure. Article 7 of Regulation 882/2004 sets out specific transparency and confidentiality obligations of MS competent authorities.

4/ PURPOSE OR PURPOSES OF THE PROCESSING, AND PROCESSORS

The processing of personal data is necessary for operating the AAC which assists Member States and EEA countries competent authorities with the practical implementation of administrative assistance and cooperation requirements laid down in Title IV of Regulation (EC) 882/2004. In particular, the AAC facilitates a rapid and secure exchange of information among Member States, and between Member States and the Commission about cross-border cases of non-compliance with food and feed law as it provides a structured communication mechanism. Consequently, the AAC national competent authorities contact points (i.e. natural persons working as staff of the liaison bodies designated in accordance with Article 35 of Regulation (EC) 82/2004), the staff of the competent authorities which have been granted access in accordance with Article 3(3) of Commission Implementing Decision (EU) 2015/1918, and the natural persons representing food/feed business operators (or authorised representatives) or third parties associated with a possible case of non-compliance need to be identified.

PROCESSORS:

Internal and external staff of Unit A.4 Directorate General Health and Food Safety Internal and external staff of Unit G.5 Directorate General Health and Food Safety

5/ DESCRIPTION OF THE CATEGORY OR CATEGORIES OF DATA SUBJECTS

Data subjects concerned by the processing of personal data in the AAC system are: The users of the system: 1) Natural persons, working as staff of the liaison bodies designated in accordance with Article 35 of Regulation (EC) 882/2004 and staff of competent authorities which have been granted access in accordance with Article 3(3) of Commission Implementing Decision (EU) 2015/1918. 2) Nominated Commission staff And (non-users): Natural persons representing food/feed business operators (or authorised representatives), or third parties whose activities become relevant within the framework of Official Controls as established by Regulation 882/2004.

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

Concerning non-users, the following data may be stored in the AAC:

- Name and surname;
- Phone;
- Fax;
- Street;
- City;
- Postcode;
- Job title;
- Affiliation to specific business operators;
- Country;
- Contact details, including contact details of Food Business Operator representatives or staff (name, telephone, email).
- Bank account.
- suspected non-compliance with food and feed law, involvement in previous administrative proceedings;
- imposed administrative penalties and outcome of the administrative procedure;
- Data provided by RASFF and TRACES, as listed in the respective notifications (DPO-1196.4 and DPO-1654.2).

Attachment under point 18: "Fields description table _Pers_Data September 2015

The following personal data relating to contact details of natural persons (Member States' or EEA countries' users and Commission staff) belonging to national competent authorities and to Commission staff are processed in the AAC (mandatory data fields are marked with an asterisk): Name/Log in (*) Email (*) Organisation (*) The asterisk represents a mandatory field. The mandatory and optional personal data fields for SAAS2 and ECAS (authentication and authorisation processes) are indicated in the respective Notifications (DPO-2065.3 and DPO-839.2).

7/ INFORMATION TO BE GIVEN TO DATA SUBJECTS

ECAS and SAAS systems (Notification DPO-839.2 and DPO-2065.3) are used to authenticate and authorise users of AAC. A specific privacy statement for AAC users is not required as the users will already be informed about their rights through ECAS and SAAS privacy statements. Both systems enables AAC users to have full control over their personal information, whether to correct, update or delete their data, by contacting the controller through the contact specified in the specific privacy

statements. Please note that in order to delete a profile, the users need to send an email to ECAS system contact point. Two months after the deletion from ECAS of the user profile, the personal data will also be deleted from SAAS, thus an e-mail to SAAS contact point is only needed if the user desires its personal data be deleted before this two-month period. With regard to the provision of information to natural persons representing food/feed business operators (or authorised representatives) a model of specific privacy statement has been prepared (AAC privacy statement model) and will be given to the Member States' liaison bodies together with a Guidance note with instructions. List of attachments: · AAC privacy statement food/feed business operators – Model for Member States competent authorities · Guidance note for Member States competent authorities.

8/ PROCEDURES TO GRANT RIGHTS OF DATA SUBJECTS

The procedure for the exercise of data subjects' rights is explained under point 7) above and in the specific privacy statement in attachment.

9/ AUTOMATED / MANUAL PROCESSING OPERATION

Storage, retrieval and consultation of personal data of national competent authorities AAC users, Commission staff, natural persons representing food/feed business operators (or authorised representatives) or third parties involved in possible cases of non-compliance with food/feed law. Automated retrieval personal data for authentication and authorisation purposes (SAAS and ECAS, see point 7). Manual insertion contact data of business operators by the users. Manual insertion as attachment or hyperlink of notifications from RASFF.

10/ STORAGE MEDIA OF DATA

Data are stored in host-computers of the Data Centre of the Commission's Directorate-General for Informatics.

11/ LEGAL BASIS AND LAWFULNESS OF THE PROCESSING OPERATION

Regulation (EC) 882/2004 establishes a harmonised framework for the organisation of official controls to verify compliance with feed and food law, animal health and welfare rules, and Title IV thereof lays down rules for the operation of administrative assistance and cooperation between Member States competent authorities and the Commission in order to ensure effective enforcement actions. In particular, the Commission has the obligation to coordinate assistance and Member States control activities, where cases of non-compliance are widespread or recurrent, or where Member States fail to agree on how to address the non-compliance. Commission Implementing Decision (EU) 2015/1918 of 22 October 2015 establishing the Administrative Assistance and Cooperation system ('AAC system') pursuant to Regulation (EC) No 882/2004 of the European Parliament and of the Council on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules (notified under document C(2015) 7132) (OJ L 280, 24.10.2015, p. 31–37). The processing of personal data within the AAC system is lawful according to Article 5(a) and (b) of Regulation (EC) No 45/2001, since it is necessary for the

performance of a task carried out in the public interest on the basis of the Treaties and for complying with the EU legislation on official controls. The processing of personal data within the AAC system is subject to a prior check by the EDPS as it may involve processing operations and/or the processing of certain categories of data foreseen in articles 27(2)(a) and 27(2)(d).

Consolidated version Regulation (EC) 882/2004.

Link <http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:02004R0882-20140630&from=EN>

Link corrigenda: <https://publications.europa.eu/en/publication-detail/-/publication/8f56943d-d2cb-4a3a-be83-a21304f776fa/language-en/format-PDF/source-4884672>

Implementing Decision (EU) 2015/1918: <http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1447065983643&uri=CELEX:32015D1918>

List of attachments:

Consolidated version Regulation (EC) 882/2004. Implementing Decision (EU) 2015/1918.

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

The recipients of the processing of AAC data subjects' personal data are: - liaison bodies designated by Member States in accordance with Article 35(1) of Regulation (EC) No 882/2004 and designated staff belonging to competent authorities at central or regional level within Member States;- the European Commission's internal and external staff. - certain liaison bodies designated by Member States to have access to information on instances of a possible non compliance perpetrates through deceptive fraudulent practices.

13/ RETENTION POLICY OF (CATEGORIES OF) PERSONAL DATA

AAC users will have their personal data stored in the AAC system as long as they hold their capacity as authorised users of the system. Non-user data is kept in a form which permits identification and then deleted not later than 5 years after the closure of the administrative assistance and cooperation case.

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

Legitimate requests from data subjects to have their data blocked or erased will be complied with by the Commission within 15 working days as from receipt of the request. Exemptions under Article 20 (1) (a) and (e) of Regulation (EC) 45/2001 may apply and will be used on a case-by-case basis.

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

Article 27.2.(a) Processing of data relating to health and to suspected offenses, offenses, criminal convictions or security measures

Article 27.2.(d) Processing operations for the purpose of excluding individuals from a right, benefit or contract

17/ COMMENTS

The present notification to the DPO relates to the processing of personal data falling under the Commission responsibility. The Commission is notably responsible for the processing of the personal data of AAC users (natural persons belonging to Member States' and EEA's competent authorities and Commission staff). The Commission may process personal data of food/feed business operators or third parties where it is necessary to coordinate the administrative assistance and cooperation activities of the Member States in accordance with Article 40 of Regulation (EC) 882/2004. It should be noted that the AAC system is an example of "joint controllership", where the responsibility for ensuring data protection is shared between the Commission and the Member States. In particular, by processing personal data of natural persons representing food/feed business operators or third parties, the Member States' AAC national competent authorities act as controllers of these individuals' personal data and assume responsibility to ensure compliance with data protection obligations set out in the applicable national laws transposing Directive 95/46/EC. The Commission, by processing personal data of AAC users and of natural persons representing food/feed business operators act as a controller and it is bound by the data protection rules applicable to EU institutions and bodies which are laid down in Regulation (EC) No 45/2001.

PLACE AND DATE: BRUXELLES, 08.09.2017

DATA PROTECTION OFFICER: RENAUDIÈRE PHILIPPE

INSTITUTION OR BODY: THE EUROPEAN COMMISSION