

REGISTER NUMBER: 113

NOTIFICATION FOR PRIOR CHECKING

Date of submission: 17 July 2006

Case number: 2006-365

Institution: European Food Safety Authority (EFSA)

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

European Food Safety Authority (EFSA), Human Resources Department

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

EFSA, Human Resources Department, the contracted Medical Centre and the contracted EFSA Medical Adviser. As EFSA is an EU agency of relatively small size, it is not possible to provide an in-house medical service. Both the Medical Centre and the EFSA Medical Adviser were selected through two separate tendering procedures.

(3) Name of the processing

Processing of medical data for occupational health purposes: pre-employment medical visits and annual medical visits.

(4) Purpose or purposes of the processing

Conformity with the recruitment and occupational health requirements for EU civil servants.

(5) Description of the category or categories of data subjects

Candidates who successfully pass a competition for a position at EFSA, Temporary Agents and Contractual Agents employed by EFSA.

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

The data concern personal data related to health and health care in the sense of art. 10 of Regulation 45/2001 and processed for the purposes referred to in art. 10, 3° of this Regulation. Below the list of data concerned and information on the occasion on which these are collected:

(a) Pre-employment medical visits: Medical history of candidates documented in a questionnaire (see annex II) completed by the EFSA Medical Adviser and kept on the medical file of the candidate; medical results of the pre-employment medical visit carried out at the Medical Centre (blood and urine analyses and instrumental medical exams) sent by the Medical Centre to the EFSA Medical Adviser and kept on the medical file; medical prescription for complementary exams (if applicable) written by the EFSA Medical Adviser; medical results of complementary exams sent by the Medical Centre or the candidate (depending on whether the exams are carried out at the EFSA Medical Centre or privately) to the EFSA Medical Adviser and kept on the medical file. Finally, the certification of suitability sent by the EFSA Medical Adviser to the Human Resources Department. Copies of all medical results are sent by the EFSA Medical Adviser to the candidate.

(b) Annual medical visits: Update of medical history making reference to questionnaire on medical file; medical results of the annual medical visit carried out at the Medical Centre (blood and urine analyses and instrumental medical exams) sent by the Medical Centre to the EFSA Medical Adviser and kept on the medical file; medical prescription for complementary exams (if applicable) written by the EFSA Medical Adviser; medical results of complementary exams sent by the Medical Centre to the EFSA Medical Adviser and kept on the medical file. Finally, the certification of suitability sent by the EFSA Medical Adviser to the Human Resources Department. Copies of all medical results are handed by the EFSA Medical Adviser to the staff member.

Additional information regarding the medical files: The medical files of current EFSA staff are being kept with the Medical Service of the European Commission in Brussels and in Ispra and shall be transferred to the EFSA Medical Adviser. The medical files shall be maintained and updated by the EFSA Medical Adviser and shall be kept in paper form in a locked filing cabinet in a separate, locked room within the infirmary located in the EFSA premises.

(7) Information to be given to data subjects

(1) All candidates for employment at EFSA have to undergo the pre-employment medical visit will receive the descriptive document enclosed in annex I, explaining the normal processing as well as the appeal possibility should a candidate who has not been found suitable, request a revision ; (2) Temporary and Contractual Agents employed in EFSA are invited to an information session, during which: (a) the EFSA medical adviser will be presented to all staff, (b) an explanation on the proceedings for the annual medical visit will be organised. The descriptive document on the processing for annual medical visits as in annex I will be distributed on that occasion. This document will also be uploaded on EFSA's intranet, which is the reference point for all relevant information for personnel matters.

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

In accordance with Article 26a of the Staff Regulations, staff members shall, on request, have the right to acquaint themselves with all the documents in their medical files and to take copies of them. Staff members shall also have the right to request that incomplete or incorrect data be rectified if duly justified. The medical file shall be consulted only in the presence of the EFSA Medical Adviser in the infirmary.

(9) Automated/Manual processing operation

Data shall be processed manually. A template of the questionnaire (**annex II**) shall be available electronically, therefore the form may be completed electronically, but shall then be printed and signed and placed on the medical file. No data will be saved electronically.

(10) Storage media of data

Data shall be retained in the medical files. The medical files shall be placed in a filing cabinet kept under lock and key, placed in a separate room inside the infirmary, which shall also be kept under lock and key. No data shall be saved or stored electronically.

(11) Legal basis and lawfulness of the processing operation

The legal basis for processing of medical files for the pre-employment medical visit and the annual medical visits can be found in the Staff Regulations of Officials of the European Communities and the Conditions of employment of other servants of the European Communities.

Article 28 of the Staff Regulations states that "an official may be appointed only on condition that he is physically fit to perform his duties". Article 33 states that "before appointment a successful candidate shall be medically examined by one of the institute's medical officers in order that the institution may be satisfied that he fulfils the requirements of Article 28.

Article 59 of the Staff Regulations states that "Officials shall undergo a medical check-up every year either by the institutions' medical officer or by a medical practitioner chosen by them". In order to meet these requirements, EFSA has selected a Medical Centre and a Medical Adviser through tendering procedures.

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

EFSA relies on external operators for the pre-employment medical visits and the annual medical visits, namely a Medical Centre and a Medical Adviser who signed a contract with EFSA following 2 separate tendering procedures. EFSA remains entirely responsible for the processing. Although the respective contracts EFSA has signed with the Medical Centre and the Medical Adviser have a limited duration, and the service providers may thus be replaced following subsequent tendering, such change of service provider should in itself not influence the processing operation. At the end of the contractual period, the Medical Adviser shall hand over the filing to his successor for the service.

The medical data shall be sent by the Medical Centre directly to the EFSA Medical Adviser. The data is disclosed only to the staff member/candidate concerned. The data shall remain on the medical file of the staff member/candidate. As indicated in point 8 above, staff members have the right to acquaint themselves with all the documents in their medical files.

(13) Retention policy of (categories of) personal data

- (1) Data related to the pre-employment medical visit of candidates, eventually not confirmed for employment in EFSA is retained until the term to contest the decision of EFSA to dismiss the candidate has expired; This period should not be longer than 1 year from the date of such decision not to employ the candidate examined.
- (2) Medical data of employed staff are kept for an indetermined period, given the continued potential relevance of such data (even after termination of employment or death). After the end of employment, the medical files are archived (EFSA general archiving system to be put in place).

**(13a) 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)**

(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.

Not applicable

(15) Proposed transfers of data to third countries or international organisations

(1) the transfer operation mentioned under point 6 above: The medical files of current EFSA staff are being kept with the Medical Service of the European Commission located in Brussels and in Ispra and shall be transferred to the EFSA Medical Adviser.

(2) after transfer (1), the medical file will be always kept by EFSA. Even if the staff member takes up employment with another EU Agency, a new medical file is opened by the new Agency. The transfer of data may possibly be requested if the staff member applies to another international organisation and there is a liaison between the two institutional doctors.

(16) The processing operation presents specific risk which justifies prior checking (*please describe*):

an art. 27.2.(a) case

AS FORESEEN IN:

X 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

At the date of this notification, EFSA has not yet started the implementation of the processing operation on medical files for occupational health purposes described in this form and its annexes. However, given the need to ensure continuity of service, it is expected that this may happen very soon after staff has been properly informed as mentioned in point 7 above, which may most likely be before the two-month period for the EDPS opinion referred to in art.27, 4° of the Regulation is ending. EFSA is in any case committed to adapt the processing operation according to the recommendations of the EDPS as a result of this prior checking.

Annexes to this notification:

Annex I: Organisation of the pre-employment medical visit and organisation of the annual medical visit

Annex II: Medical Questionnaire

Annex III: Specifications of calls for tender "selezione di un poliambulatorio per l'EFSA" and "selezione di un consulente medico per l'EFSA"

PLACE AND DATE: Parma, 10/07/2006

DATA PROTECTION OFFICER: Claus Reunis

INSTITUTION OR BODY: European Food Safety Authority (EFSA)