

(To be filled out in the EDPS' office)

REGISTER NUMBER: 986

(To be filled out in the EDPS' office)

NOTIFICATION FOR PRIOR CHECKING

DATE OF SUBMISSION: 04/04/2013

CASE NUMBER: 2013-0352

INSTITUTION: FRA

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

INFORMATION TO BE GIVEN²

1/ NAME AND ADDRESS OF THE CONTROLLER

Paul Cozzi, Head of Human Resources and Planning Department
European Union Agency for Fundamental Rights (FRA)
Schwarzenbergplatz 11, 1040, Vienna, Austria

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

- Heads of Departments, for the staff under their responsibilities
- Director, for the staff under their responsibilities, and for all staff if acting as AIPN.
- Head of Sector Human Resources, the person in Human Resources dealing with presence and absence and her back-up.

3/ NAME OF THE PROCESSING

Management of leave

4/ PURPOSE OR PURPOSES OF THE PROCESSING

¹ OJ L 8, 12.01.2001.

² **Please attach all necessary backup documents**

Management of individual rights related to annual leave, sick leave, maternity leave, and other types of special leave. The data related to leave may also be used for further processing in the context of the invalidity procedure pursuant to Article 59 (4) of the Staff Regulations.

The processing of personal data in relation to leave is necessary for the performance of the Agency's obligations towards staff as provided under point 11.

5/ DESCRIPTION OF THE CATEGORY OR CATEGORIES OF DATA SUBJECTS

Temporary agents, Contract agents, Seconded National Experts and Interns.

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

Name of data subject, type of absence, starting date of absence, ending date of absence, total duration of absence and his/her address. In the case of special leave the name of the child/spouse/parent or relative of the data subject.

In the context of medical certificate during working hours the data subject provides to the person in HR in charge of leave a time certificate ("Zeitbestätigung") indicating his name, the name of the hospital/clinic or private doctor, the date and the time of the visit, without any information on the health of the staff member.

7/ INFORMATION TO BE GIVEN TO DATA SUBJECTS

The information provided to the data subject contains the following:

- a) The identity of the controller;
- b) The purposes of the processing operation for which the data are intended;
- c) The recipients or categories of recipients of the data;
- d) The existence of the right of access to, and the right to rectify or to block, the data concerning him or her;
- e) Any further information such as:
 - (i) The legal basis of the processing operation for which the data are intended,
 - (ii) The retention period of the data
 - (iii) The right to have recourse at any time to the European Data Protection Supervisor, insofar as such information is necessary, having regard to the specific circumstances in which the data are collected, to guarantee fair processing in respect of the data subject.

See attached Information Note (annex 1)

8/ PROCEDURES TO GRANT RIGHTS OF DATA SUBJECTS

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

Rights of access and rights to rectify administrative data in order to render the data as accurate and complete as possible. On some occasions the right to rectify is associated with the right to block data when for example the data subject claims they are inaccurate.

The right of access, rectification, blocking and the right to object are granted following a written request to the data controller by the data subject via e-mail at “first name.surname of data controller@fra.europa.eu”.

The rights of rectification and blocking are granted without delay.

The possibility of rectifying the accuracy of the data is applicable retroactively as are the associated rights.

In the case the data subject requests to block data in TIMA (Time Management IT tool) because the accuracy of data is challenged, three copies of a “snapshot photo” of the state of the data (by printout) will be made: one for the data subject, another one for the data controller and a third copy of the printout for the DPO of the FRA.

9/ AUTOMATED / MANUAL PROCESSING OPERATION

Time Management IT tool (TiMA). The TiMA tool is used for handling entitlements, registrations, approval of leaves and for reporting.

Functional mailbox (presence@fra.europa.eu). The mailbox is used to inform HR about unexpected absences, e.g. sick leave, or special leave for sudden unexpected illness of child/spouse etc. The information is then uploaded to TiMA by the person in HR who deals with presence and absences.

10/ STORAGE MEDIA OF DATA

Electronic in TIMA and in the functional mailbox.

All supporting documents related to special leaves and sick leave are uploaded in TiMA and the originals as kept in physical files located, in a locked cupboard with restricted access, in the office of the person in HR who deals with presence and absences. Hard copies from the functional mailbox are also kept in physical files

11/ LEGAL BASIS AND LAWFULNESS OF THE PROCESSING OPERATION

Title II of the Conditions of Employment of Other Servants (CEOS): Chapter 4: Working conditions (Articles 16-18), leave on personal grounds (Article 11 of CEOS), Title IV of CEOS: Articles 81 and 91.

Chapter 2 of Title IV of the Staff Regulations: working conditions of officials (Articles 57-60), special leave (Annex V of SR), maternity leave (Article 58 of SR), sick leave/family leave (Article 59 of SR).

EB Decision 2012/02 concerning implementing provisions on leave, parental leave and family leave.

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

- Heads of Departments, for the staff under their responsibilities
- Director, for the staff under his responsibilities and for all staff if acting as Appointing Authority (AIPN).
- Head of Sector Human Resources, the person in Human Resources dealing with presence and absence and her back-up.

13/ RETENTION POLICY OF (CATEGORIES OF) PERSONAL DATA

The retention period depends on the type of leave and varies in accordance with the purposes for which the data are collected and processed as follows:

- Annual leave: three years. In case a financial compensation is generated in relation to leave i.e. with regards to payments of leave not taken on termination of service, the data is kept for up to seven years at most in line with Article 49 of the implementing rules of the Financial Regulation.
- Sick leave: the purpose of checks on absences due to illness is to ensure that the absence is justified. Two years. Only if a dispute or an appeal is under way the data will be kept longer.
- Other leave such as part-time, parental and family leave, leave on personal grounds: the same as that of the personal files since this type of documents are filed in the personal file of the staff members.

The abovementioned retention periods apply to on-line data (TiMA), functional mailbox of presence, hard copies and supporting documents.

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)

Data subjects have the right to block data at any time.

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

No transfer is foreseen to third countries or international organisations.

16/ THE PROCESSING OPERATION PRESENTS SPECIFIC RISK WHICH JUSTIFIES PRIOR CHECKING (*Please describe*):

AS FORESEEN IN:

↑ Article 27.2.(a)

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

The purpose of checks on absences due to illness is to ensure that the absence is justified. These certificates do not contain information on health. A separate notification to EDPS is done on health data.

↑ Article 27.2.(b)

Processing of data for the evaluation of the conduct of the data subject.

Processing of data concerning leave in order to allow/permit the evaluation of the conduct of the staff member. It is not used for assessing the conduct/performance of the staff member. For example if a staff member is on leave on personal grounds no appraisal will be made for that period.

↑ Article 27.2.(d)

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

In the administrative follow up of unjustified absences owing for example to illness and which leads to a reduction of leave entitlement and or withholding of pay.

↑ Other (general concept in Article 27.1)

17/ COMMENTS

Attachments:

- 1) Information Notice – Management of leave to data subjects (annex 1)
- 2) EB Decision 2012/02 on implementing rules governing leave, parental leave and family leave (annex 2)
- 3) Declaration of Confidentiality for staff processing health data (annex 3)

PLACE AND DATE:

DATA PROTECTION OFFICER:

INSTITUTION OR BODY: