

(To be filled out in the EDPS' office)

REGISTER NUMBER: 1001

(To be filled out in the EDPS' office)

NOTIFICATION FOR PRIOR CHECKING

DATE OF SUBMISSION: 23/05/2013

CASE NUMBER: 2013-0539

INSTITUTION: EFCA

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

INFORMATION TO BE GIVEN²

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

Unit C – Operational Coordination
Desk North Sea and Baltic Sea
Desk North Atlantic and Western Waters
Contact person: Miguel Nuevo, Desk Officer for Training and Assistance

3/ NAME OF THE PROCESSING

Reception of 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.

¹ OJ L 8, 12.01.2001.

² **Please attach all necessary backup documents**

In the context of operational coordination, inspection reports concerning inspections of fishing vessels carried out under JDPs in EU waters which contain alleged infringements are provided by Member States' authorities or Union inspectors and received in copy by EFCA for information.

5/ DESCRIPTION OF THE CATEGORY OR CATEGORIES OF DATA SUBJECTS

Master of the fishing vessel subject to inspection, vessel owner and inspectors.

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 master of the fishing vessel subject to inspection; name and address of the owner of the fishing vessel subject to inspection; name and signature of the inspector carrying out the inspection.

7/ INFORMATION TO BE GIVEN TO DATA SUBJECTS

EFCA has published a Data Protection Clause (see Annex) on its website pursuant to Regulation (EC) No 45/2001 at the following links:

For the North Sea and Western Waters JDPs:

http://www.efca.europa.eu/pages/home/jdp_north.htm

For the Baltic Sea JDP:

http://www.efca.europa.eu/pages/home/jdp_baltic.htm

8/ PROCEDURES TO GRANT RIGHTS OF DATA SUBJECTS

EFCA has no influence on the content of the inspection reports which are drawn up by an inspector of the Inspecting Member State. EFCA merely functions as a mailbox with regard to the reception 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)(b) and Art. 5(b) R. 45/2001) with regard to inspection reports containing alleged infringements. In all cases, the right of access is already given 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

Inspection reports related to fishing activities are received by e-mail (pdf/jpg files).

Electronic versions (pdf) of these documents are filed in a secure part of the P drive.

Inspection reports provided by Member States' authorities and Union inspectors concerning inspections of fishing vessels carried out in the North Sea, Baltic Sea, or Western Waters (pelagic) JDP Areas **are received in a copy by EFCA for information purpose only.**

Parts of the information (excluding personal data) contained in the inspection reports may be extracted and used for risk analysis and/ or training purposes.

10/ STORAGE MEDIA OF DATA

Electronic versions (pdf) of inspection reports are filed in a restricted area of the P drive, to which only staff of Unit C with a need to know has access.

11/ LEGAL BASIS AND LAWFULNESS OF THE PROCESSING OPERATION

Art. 5(2) of R. 45/2001, Processing is necessary for compliance with the following legal obligation of EFCA:

The reception of inspection reports for the purpose of operational coordination is provided for by Art. 5(2) of Council Regulation (EC) No 768/2005.

In particular, the reception of inspection reports conducted by Union inspectors which contain an alleged infringement, is provided for by Article 123(3) 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

n/a

13/ RETENTION POLICY OF (CATEGORIES OF) PERSONAL DATA

The 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

15 days from receipt of legitimate request

(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.

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):*

Inspection reports received concern alleged infringements by the fishing vessel (master/ owner) of applicable EU legislation. The inspection reports serve as evidence in the courts of the inspecting Member State and the Flag Member State.

AS FORESEEN IN:

Article 27.2.(a)

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

17/ COMMENTS

PLACE AND DATE: Vigo, 21 May 2013

DATA PROTECTION OFFICER: Rieke Arndt

INSTITUTION OR BODY: EFCA