

REGISTER NUMBER: 68

NOTIFICATION FOR PRIOR CHECKING

Date of submission: 1 December 2005

Case number: 2004/271

Institution: European Central Bank

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

Head of Office Services Division (Mr. Humphrey Rudgard)

European Central Bank
Kaiserstrasse 29
D-60311 Frankfurt am Main

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

1) DG-Administration – Office Services Division

3/ Name of the processing

Investigation procedures regarding the usage of telephones.

4/ Purpose or purposes of the processing

Conducting an investigation whenever management, after having performed a plausibility check, disagrees with the received content of business call statistics, contained in a list of business calls made from extension numbers in its respective business area (Art 1.3 of AC 4/2000).

5/ Description of the category or categories of data subjects

All individuals working for the ECB who have allocated telephone numbers (extensions) are potential data subjects for the relevant data processing operations.

Staff members with permanent or fixed term contracts are subject to the obligations laid down in the Administrative Circular 4/2000 on "Rules for the official and private use of the ECB's telephone and fax equipment" and to the relevant attachment entitled "Call Charging Facility-Investigation Procedures". Additionally to that all these staff members are subject to the "Statute of the European System of Central Banks and of the European Central Bank", the "Conditions of Employment for staff of the ECB", the "ECB Staff Rules" and the "Code of Conduct of the European Central Bank"; all staff members with a short-term contract are subject to the "Statute of the European System of Central Banks and of the European Central Bank", the "Code of Conduct of the European Central Bank", the "Conditions of Short-Term Employment" and the "Rules for Short-Term Employment".

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

Basic personal data of staff members, billing data/statistical data and traffic data related to business calls.

7/ Information to be given to data subjects

Should a manager wish to query the content of the statistical information received relating to the business calls of individual members of staff, or require additional information, he or she should proceed as follows (Art. 3 of the attachment to the AC 4/2000):

1) Inform the staff involved that an investigation will be conducted.

2) In cases where he or she is dissatisfied with the content of the received business call listings, the line manager should discuss the issue with the member of staff concerned and resolve discrepancies where possible.

The Administrative Circular 4/2000 and the relevant attachment are published on the ECB's intranet site. Additionally to that staff members are informed in specifically organised "induction seminars" about the most important provisions concerning the professional duties laid down in the "Conditions of Employment for staff of the ECB" and the "ECB Staff Rules" or "Conditions of Short-Term Employment" and the "Rules for Short-Term Employment", when they start working at the ECB, including the rules for the private and official use of phones. Data subjects can contact the Controller for any additional information falling under the scope of Art. 11 and 12 of the Regulation.

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

a) As to the right of access (Art. 13):

1) In the course of an administrative investigation or prior to that during the discussions with their line manager, data subjects have access to the relevant business call lists with statistic data.

2) In order to access other data related to their business calls data subjects shall contact the Controller.

b) As to the exercise of all other rights laid down in Section 5 of the Regulation:

In the course of an investigation data subjects shall contact the Controller in order to exercise their rights.

9/ Automated / Manual processing operation

(a) Manual Processing operations can take place:

Upon personal data contained in the business call lists.

(b) Automated processing operations can take place:

Upon personal traffic data contained in the ECB's telephone log-files or on devices (e.g. CDs) where the relevant data are stored.

10/ Storage media of data

a) Hardcopies of the statistical billing lists of business calls.

b) The ECB's telephone log-files stored on various devices (e.g. CD).

11/ Legal basis and lawfulness of the processing operation

Conditions of Employment for staff of the ECB/ Conditions of Short-Term Employment/ ECB Staff Rules/ Rules for Short-term Employment/ Statute of the European System of Central Banks and of the European Central Bank/ Code of Conduct of the European Central Bank/Administrative Circular 04/2000 on "Rules for the official and private use of the ECB's Telephone and Fax Equipment and relevant attachment. In accordance with Art. 11.2 of the ECB's Rules of Procedure, Administrative Circulars are binding for the staff of the ECB.

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

The only recipients of data related to the Investigation Procedure described in this notification can be:

- a) All responsible managers
- b) The Directorate General Human Resources Budget and Organisation and if necessary the Directorate General Legal Services and the Directorate Internal Auditing in cases of a suspected misconduct.
- c) Members of staff who, for professional reasons, need to have access to the relevant information and whose access is authorised by the Controller.

13/ retention policy of (categories of) personal data

For legal and statistical purposes, traffic and billing data will be stored and retained for up to three years from the date of the first data backup. After expiry of this period, all detailed personal call data will be deleted.

13 a/ 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)

There is no special period foreseen for blocking the data.

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,

There are no specific rules or procedures in place concerning longer storage periods for historical, statistical or scientific purposes.

15/ Proposed transfers of data to third countries or international organisations

There are no proposed transfers of data to third countries or international organisations.

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

AS FORESEEN IN:

X Article 27.2.(a)

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

X 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

- a) The Call Charging Facility at the ECB allows a clear separation of business calls and personal calls enabling all members of staff on the ECB payroll to make personal calls from the ECB's premises in Frankfurt without regional restrictions by identifying them with a personal PIN code.
- b) In a case where data subjects did not have access to the Call Charging Facility (e.g. external consultants, trainees etc.) in accordance with the ECB rules as they are laid down in Art. 2.2 of Administrative Circular 4/2000, the ECB's DPO advised the Controller (as outcome of a consultation of the DPO) to allow data subjects to delete traffic data related to private calls prior to the communication of the itemised bill to their respective manager. The respective Business Area followed this advice of the DPO and integrated the recommended procedure in its internal rules of procedure.
- c) It is to be noted that the investigation procedure described in this notification applies in analogy to the billing lists with aggregated call data concerning mobile phones used at the ECB for business purposes (Art. 1.4 of Administrative Circular 04/2000).
- d) The retention period for traffic and billing data at the ECB is not compliant with the requirements of Art. 37 of the Regulation. The DPO has initiated a discussion with the Controller and DG Information Systems (the latter being responsible for the technical functionality of the relevant IT systems), on how best to bring ECB practice in line with the requirements of the Regulation.

PLACE AND DATE: Frankfurt am Main, 29 November 2005

DATA PROTECTION OFFICER: Wolfgang Sommerfeld [signed]

INSTITUTION OR BODY: European Central Bank