

**REGISTER NUMBER: 571**

**NOTIFICATION FOR PRIOR CHECKING**

Date of submission: 15/02/2010

Case number: 2009-765

Institution: ERA

Legal basis: article 27-5 of the regulation CE 45/2001<sup>(1)</sup>

(1) OJ L 8, 12.01.2001

**INFORMATION TO BE GIVEN<sup>(2)</sup>**

(2) Please attach all necessary backup documents

1/ Name and adress of the controller

European Railway Agency, Mikkel Emborg, Head of Administrative Unit, 120 Rue Marc Lefrancq, 59300 Valenciennes, France

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

HR section, Administration Unit

3/ Name of the processing

Health Data.

4/ Purpose or purposes of the processing

Supporting documents are collected to justify leave on medical grounds and special leave of a medical nature of ERA staff members. These are registered in LeaMa which is designed to monitor and manage data on annual leave, special leave and leave on medical grounds of ERA staff members (including seconded national experts). LeaMa can be used to produce statistical data regarding annual leave and leave on medical grounds. Medical "fit for work" certificates are also processed at ERA (received from the Commission Medical Service as ERA has a service level agreement with such Medical Service). However such processing was already covered by ERA's prior cheking notification to the EDPS dated 27 March 2009 (on recruitment procedures). The "medical-fit-for-work" certificate is a prerequisite for recruitment purposes and determines whether a limitation on benefits is necessary.

5/ Description of the category or categories of data subjects

Staff members (including SNEs) working at ERA.

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

Supporting documents for absences on medical grounds and special leave of a medical nature are registered in LeaMa (part of the e-HR database). The LeaMa software requires the following data: Name, Surname, Personnel No., Working language, date of birth, Sex, Grade/step, Unit, Sector, Entry into Service Date, Entry into Institution Service Date, Place of Origin, Distance (KM) from place of origin, Telephone no., nationality. The above parameters are necessary to determine the Leave entitlement and the Travel Time. It is important to note that sensitive data concerning health are not collected per se. Only in cases of absence of more than 3 working days is a medical certificate required. Even in this case, the medical reason is usually not mentioned, and in any case not requested by the Administration. Medical data concerning data subject's family are collected in cases where Special Leave is requested in accordance with the provisions of Commission Decision C(2004) 1597 introducing implementing provisions on leave. The Privacy Statement for LeaMa (which is generic for the overall e-HR system) specifies that "neither the medical files nor (...) are integrated in e-HR".

7/ Information to be given to data subjects

Staff is informed when starting work about the system, the data involved, the relevant legal basis (Staff Regulations/CEOS are handed over), the identity of the Data Controller. Additionally the relevant information is posted in the Agency's Intranet. There is also a Privacy Statement on the LeaMa system, which refers to the overall e-HR system but includes as well a few more specific rules.

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

The electronic version of data (LeaMa) is stored in ERA's Server. A part of the operational system is installed in each PC with the purpose to enable the data subjects process their requests for Annual Leave, Special Leave, etc. The data subject can see only his personal data. The data subject can request the correction of non-accurate data by using the tool "Report incorrect data" (sending an email to the LeaMa Team).

□

9/ Automated / Manual processing operation

This processing is partly manual and partly automated as follows: A. The electronic version of data (LeaMa) is stored in ERA's Server and is fully automated. A part of the operational system is installed in each PC with the purpose to enable the data subjects process their requests for Annual Leave, Special Leave, etc. Persons delegated the authority to grant leave (immediate superiors, Heads of sectors/ Units) can access the information related to the data subjects under their authority only, in order to approve/disapprove requests for leave.

B. The Manual version of the data, in the form of supporting documents, and the 'medical fit-to-work' certificates, is kept in locked cabinets, accessible only by the designated officials (the Leave Manager, persons responsible for recruitment). Additionally, Medical certificates concerning leave on medical grounds are stored in locked cabinets, accessible only by designated officials.

10/ Storage media of data

A. The electronic version of data (LeaMa) is stored in ERA's Server. A part of the operational system is installed in each PC with the purpose to enable the data subjects process their requests for Annual Leave, Special Leave, etc. B. The Manual version of the data, in the form of supporting documents, 'medical fit-to-work' certificates, is kept in locked cabinets, accessible only by the designated officials (the Leave Manager, persons responsible for recruitment). Additionally, Medical certificates concerning leave on medical grounds are stored in locked cabinets, accessible only by designated officials.

11/ Legal basis and lawfulness of the processing operation

- EC Regulation No 881/2004 (ERA's statutory Regulation)
- Staff Regulations (articles 28, 33, 59), Article 1 of Annex VIII
- Article 12 (d), 13 (2) and 83 (2) of the CEOs
- Commission Decision C(2004) 1597/ 28.04.2004 introducing implementing provisions on leave

<p>12/ The recipients or categories of recipient to whom the data might be disclosed</p> <p>The recipients of the data are: the Appointing Authority, the persons authorized to approve requests for leave (mainly the Heads of sections/Units), the Human Resources staff and any of the supervisory instances of ERA (i.e. European Court of Auditors, Internal Audit Service, and in case of controversy, the Civil Service Tribunal, the European Ombudsman, etc.). Additionally in case of medical re-examination of a staff member (usually in cases of long-term leave on medical grounds) recipients of personal data are the Medical Service of the European Commission. Powers are also delegated to a back-up person to register absences of the staff member into the system.</p>
<p>13/ retention policy of (categories of) personal data</p> <p>Supporting documents for leave on the ground of medical reasons: All certificates are kept for three years in accordance with Article 59(4) of the Staff Regulations.</p> <p>Medical-fit-for-work certificates are kept in the individual recruitment files:</p> <ul style="list-style-type: none"> <li>• For successful candidates: ten (10) years from the termination of employment or from the last pension payment</li> <li>• For non-recruited candidates, data is kept for the period during which it is possible to challenge the data</li> </ul>
<p>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)</p> <p>In case of error or inaccuracy, the data subject can request the correction of non-accurate data. The LeaMa intranet provides for a mechanism to report (by email) inaccuracies to the LeaMa team ("Report incorrect data").</p>
<p>14/ Historical, statistical or scientific purposes</p> <p><i>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,</i></p> <p>Data on Leave on Medical Grounds are processed for statistical purposes in an anonymous manner, thus Regulation (EC) 45/2001 is not applicable.</p>
<p>15/ Proposed transfers of data to third countries or international organisations</p> <p>Not applicable.</p>
<p>16/ The processing operation presents specific risk which justifies prior checking (<i>please describe</i>):</p> <p>AS FORESEEN IN:</p> <p><input type="checkbox"/> Article 27.2.(a) Processing of data relating to health and to suspected offences, offences, criminal convictions or security measures,</p> <p>Yes (health data).</p> <p><input type="checkbox"/> Article 27.2.(b) Processing operations intended to evaluate personal aspects relating to the data subject,</p>

☐ 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

***Already in practice (ex-post prior checking ).***

It should also be noted that the claims for reimbursement of medical expenses under the Joint Insurance Sickness Scheme follow the procedures set forth in the PMO Brochure "Paymaster's Office Reimbursement of medical expenses Practical Guide" dated 08/09/2008.

Attached to the notification, please find the privacy statement which is published on the ERA intranet in relation to the LeaMa IT application.

PLACE AND DATE:

DATA PROTECTION OFFICER:

INSTITUTION OR BODY: