

(To be filled out in the EDPS' office)

NOTIFICATION FOR PRIOR CHECKING

DATE OF SUBMISSION: 27/03/2013

CASE NUMBER: 2013-0345

INSTITUTION: ECHA

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 Chemicals Agency, Annankatu 18, 00120 Helsinki, Finland

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

The HR Unit is the responsible unit for managing any data related to leave management and flexitime management.

3/ NAME OF THE PROCESSING

Leave management and time management.

4/ PURPOSE OR PURPOSES OF THE PROCESSING

Personal data related to leave: management of rights and obligations of the staff members with regard to sick leave, annual leave and special leave.

¹ OJ L 8, 12.01.2001.

² **Please attach all necessary backup documents**

Personal data related to flexitime: the main purpose is the reconciliation of work and private life, allowing staff to recuperate over-hours worked. Additionally, the data is used for measuring working time to allow for efficient use of human resources: compliance with the working time rules is verified and abuse detected, while also exuberant over-hours and excessive workload may be detected. The data is thus not used directly for evaluation purposes, although abuse of the system may lead to an administrative inquiry or disciplinary proceedings.

For interim workers and in-house consultants, the timeclock data may also be used for billing purposes.

5/ DESCRIPTION OF THE CATEGORY OR CATEGORIES OF DATA SUBJECTS

Statutory staff members of the Agency, SNEs (and possibly their family members), trainees, interims and consultants.

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

Leave management:

- Administrative data (identification data), which may include name and contact details, job title, grade and personnel number.
- Sensitive data, including data relating to health may be collected on a general level, without collecting the detailed medical information.

Any of these data may also relate to family members of the staff member.

Flexitime system: recording of identification data, clocking times, annual leaves, special leaves (without further details) and sick leave (without further details).

7/ INFORMATION TO BE GIVEN TO DATA SUBJECTS

The information required under Article 11 and 12 of Regulation (EC) No 45/2001 is communicated to the staff via Data Protection notices under the specific leave application forms.

8/ PROCEDURES TO GRANT RIGHTS OF DATA SUBJECTS

The data on leave can be accessed and rectified on simple request towards the controller. The flexitime data can be accessed and rectified by the staff member via the unit secretary, who can correct inaccuracies in the time recording directly.

9/ AUTOMATED / MANUAL PROCESSING OPERATION

The systems for access control and time registration are interlinked at ECHA to some extent: one single electronic badge is used to open the secured doors and to clock into the time recording system. The terminals at the secured doors only record the unique ID number of the badge that opened them, and the security staff will have the possibility to trace back this unique ID code to a certain staff member in case a security incident is investigated, but no link will be made with the data recorded by the flexitime consoles (time of clocking in and out). Thus, although only one software is used to manage the data to which administrators from both the security team and the HR team have access, there is a strict separation between the use of the data.

Annual leave, flexitime recuperation and most special leave applications and approvals are processed electronically only via a specific software package. Supporting material may be processed separately, both in paper and electronic format. For certain special leave requests, specific forms are available, which are processed both manually and electronically.

10/ STORAGE MEDIA OF DATA

See section 9/ above.

11/ LEGAL BASIS AND LAWFULNESS OF THE PROCESSING OPERATION

The legal basis for the processing of personal data operations can be found in the Staff Regulations (SR):

Leave in general is covered under Chapter 2 of Title IV: Working conditions of officials of the Staff Regulations (Articles 57-60), applied by analogy to other servants of the European Communities, which are defined in Titles III & IV of the Staff Regulations:

- Annual leave (Article 57 SR), Special leave (Annex V SR), Maternity leave (Article 58 SR), Sick leave/family leave (Article 59 SR), Leave on personal grounds and unpaid leave (Articles 15, 37 and 40 SR) form the legal basis of these processing operations.

- Furthermore, Articles 11, 16 to 18, 58, 81 and 91 of the *Rules applicable to other servants of the European Communities* provide rights to leave for those individuals who are not covered by the Staff Regulations, but are nonetheless employed as temporary and contract agents.

The processing of personal data in relation to leave is considered as necessary for the performance of the institutions and bodies' obligations towards staff as provided by the above-mentioned rules.

Therefore the processing of personal data carried out in this context can be considered as lawful in accordance with Article 5(a) of the Regulation.

- Article 55 SR forms the legal basis for flexitime processing operations, understood as working arrangements allowing staff to balance their professional and private life.

Implementing rules adopted by analogy by the Agency:

- Commission decision on implementing provisions on leave (C(2010) 7495 of 5.11.2010)
- Commission decision on the general provisions for implementing Article 42a of the Staff Regulations concerning parental leave (C(2010) 7572 of 5.11.2010)
- Commission decision on Article 42b of the Staff Regulations concerning family leave (C(2010) 7494 of 5.11.2010)

- Commission decision on Article 55a of the Staff Regulations and Annex IVa thereto concerning part-time work (C(2010) 7573 of 5.11.2010)

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

In the framework of leave, data may be communicated to the line managers of the staff member concerned and in some cases to the medical advisor to seek their approval/opinion. Administrative documents containing data relating to health are only disclosed to those recipients who have a need to know and are bound by an obligation of professional secrecy equivalent to the medical one. Unnecessary information about the health status is removed from these documents if this information is not necessary for the purpose for which the data are transmitted.

Sometimes transfers to the Legal Service Department, the Civil Service Tribunal, the European Ombudsman or the EDPS may occur.

As regards flexitime, data is only processed by a small team within the HR Unit, while the secretary and Head of Unit of each unit have access to the flexitime data of the staff of their unit, in order to be able to grant recuperation days, to detect exuberant over-hours and excessive workload or abuse. Also corrections to the clocking times are made at unit level by the unit secretary. The security team does not receive and make use of the data stemming from the flexitime system.

13/ RETENTION POLICY OF (CATEGORIES OF) PERSONAL DATA

Annual leave: 2 years

If annual leave days paid on departure: 7 years

Special leaves: 2 years except for cases of death of a family member and similar one-off leaves: for entire career (or as long as a persistent right still exists or a legal claim is still pending)

Part time, parental and family leaves: for entire career (or as long as a persistent right still exists or a legal claim is still pending)

Unpaid leave: for entire career (or as long as a persistent right still exists or a legal claim is still pending)

Credit time that could affect pension calculation: for entire career (or as long as a persistent right still exists or a legal claim is still pending)

Sickness leave: 2 years

Flexitime data is stored for a maximum period of 6 months.

13 A/ TIME LIMIT TO BLOCK/ERASE ON JUSTIFIED LEGITIMATE REQUEST FROM THE DATA SUBJECTS

All requests are handled without undue delay, in line with ECHA's Code of Good Administrative Behaviour in relations to the public (replies within 15 working days).

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.

Some aggregated statistics may be collected regarding leave and flexitime, but on a unanimous basis.

15/ PROPOSED TRANSFERS OF DATA TO THIRD COUNTRIES OR INTERNATIONAL ORGANISATIONS

Not applicable

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 flexitime system records sick leave with the symbol 'S', and may thus reveal the health status of a data subject. No health data is collected however. Also leave requests may reveal data related to the health of the staff member or their family members.

↑ Article 27.2.(b)

Processing operations intended to evaluate personal aspects relating to the data subject,

The flexitime system is also meant to record attendance in the workplace, which data can then be used to assess the conduct of the official, especially in case there is suspicion of misconduct of the staff member.

↑ Article 27.2.(c)

Processing operations allowing linkages not provided for pursuant to national or Community legislation between data processed for different purposes,

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1 Article 27.2.(d)

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

Not applicable

1 Other (general concept in Article 27.1)

Not applicable

17/ COMMENTS

Not applicable

PLACE AND DATE: 27 March 2013

DATA PROTECTION OFFICER: Bo Balduyck

INSTITUTION OR BODY: European Chemicals Agency