

**REGISTER NUMBER: 365**

**NOTIFICATION FOR PRIOR CHECKING**

Date of submission: 15/05/08

Case number: 2008-292

Institution: Council of the european Union

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 adress of the controller**

GRETSCHMANN Klaus  
Director-General  
DGC – Internal Market, Competitiveness, Industry, Research, Energy, Transport and Information society  
DGC DIR.GEN.  
+32(0)2/281 5550  
Council of the European Union Wetstraat 175 - 1048 Brussels  
Phone : +32 2 285 61 11 - Fax +32 2 285 73 97

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

DG C Coordination Cell (+32 2 281 7033)  
DG C IIIA (Telecommunications & Information society) (+32 2 281 9588)

**3/ Name of the processing**

Selection procedure for EDPS and Assistant Supervisor

**4/ Purpose or purposes of the processing**

The purpose is to ensure that the data submitted by the applicants following the relevant public call is valid and accurate, and enable the Council (and its preparatory bodies) to undertake an overall examination of the candidates' files with the aim of achieving a common accord with the European Parliament on the most appropriate persons for final appointment.

**5/ Description of the category or categories of data subjects**

Any person to be proposed by the Commission (in accordance with the criteria set out in the public call for applicants and following a pre-selection to be made by an inter-institutional panel)

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

All personal data included in the individual CVs and any further data as requested in the public call for applicants.

**7/ Information to be given to data subjects**

Information notice (to be provided to all candidates by e-mail): "The candidates' attention is drawn to the fact that all candidates' data provided by the Commission in its proposal to the European Parliament and to the Council for the appointment of the EDPS and his/her Assistant will be processed for the strict purpose only of the candidates' evaluation. The Council and the European Parliament may decide to make some of the data accessible to the public, including through publication on the institutions' websites, on the basis of their rules of procedure."

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

Section 5 de la Décision du Conseil du 13.9.2004: 2004/644/CE (JO L n° 296, 21.9.2004, p.20)  
All rights of data subjects will be fully respected in accordance with Regulation 45/2001 and the procedural requirements prescribed in Council Decision 2004/644/EC.

**9/ Automated / Manual processing operation**

Consideration of candidates' CVs (and possible background documents, such as motivation letters, as requested in the public call for applicants) for the appointments of EDPS and the Assistant EDPS  
Mixed processing (involving the processing of any electronic documents received by the Commission and their further handling on paper)

**10/ Storage media of data**

See below under section 18.

**11/ Legal basis and lawfulness of the processing operation**

- Regulation (EC) No 45/2001, in particular Article 42 - Decision No 1247/2002/EC of the European Parliament, of the Council and of the Commission of 1 July 2002 and - The Council rules of procedure (Council Decision 2006/683/EC, Euratom of 15 September 2006, as amended)

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

- i) GSC officials involved in the handling of the procedure within the Council's preparatory groups (Cabinet, DG C and the Council Legal Service),
- ii) Member states' delegations participating in the Working Party on Data Protection, the ANTICI Group and COREPER II
- iii) Any further delegate in the Permanent Representations or in the relevant Ministries in EU Member States (if considered appropriate by the Council's preparatory bodies) and iv) The public in general, should the Council decide to make data accessible to all, in accordance with the Council rules of procedure.

**13/ retention policy of (categories of) personal data**

The above data will be stored in DG C premises for three years maximum; it will be transmitted to the GSC current archives afterwards, in compliance with Council Regulation (EC, EURATOM) No 1700/2003 and CP 169/05 [and the future DG C archiving policy, which is currently under consideration].

**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)

On the basis of the relevant provisions (Articles 15 and 16 of Regulation 45/2001), time limits for blocking and erasing them will be set for one week following the justified request of the data subject.

**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,

In accordance with Council Regulation (EC, EURATOM) No 1700/2003 and CP 169/05, the data might be kept for a longer period of time as a basis for future relevant processings and for evidential historical use.

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

The data are not intended to be transferred to third countries or international organisations.

Should the Council decide to publish some of the candidates' data on the public register of Council documents (most likely, this will be only the case of the A note addressed by COREPER to the Council and suggesting that it should endorse the names of both successful candidates) and according to the ECJ case law (C-101/01, Lindqvist), data availability in a public database on the internet is not considered as data transfer.

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

The processing aims to evaluate personal aspects relating to the data subjects, including their ability to perform the duties (Article 27(2)(b) of Regulation 45/2001). However, any imminent risks are significantly reduced for the following reasons:

- i) the Commission is expected to provide an objective and thorough evaluation of the candidates' merits and motivate properly its proposals;
- ii) the number of participants in the inter-institutional panel, during the pre-selection phase, is limited and all are bound strictly by the confidentiality rules;
- iii) the final preference(s) of the Council will be based completely on the elements provided for in the Commission proposal.

AS FORESEEN IN:

Article 27.2.(b)

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

**17/ Comments**

The data subjects may access their data in accordance with Regulation (EC) No 45/2001 and Council Decision 2004/644/EC.

PLACE AND DATE: Brussels, 15.05.2008

DATA PROTECTION OFFICER: Pierre Vernhes

INSTITUTION OR BODY: Council of the European Union