

REGISTER NUMBER: 464

NOTIFICATION FOR PRIOR CHECKING

Date of submission: 15/02/2009

Case number: 2009-043

Institution: EACI

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

Mr Guido de Clercq, Head of Unit Ressources, European Commission, EACI, MADO 04/09, B-1049 Brussels

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

Sector "Human Ressources"

3/ Name of the processing

Recruitment procedure & constitution of personnel files

4/ Purpose or purposes of the processing

The recruitment of personal is necessary for the proper daily functioning of the agency.

5/ Description of the category or categories of data subjects

EACI seconded officials, temporary agents, contractual agents

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

The following data are requested from selected candidates to establish their personnel file:

- Testimonials of academic degrees, diplomas and educational certificates
- Testimonials from previous employments stating the duration of employment
- Payslip of last employment
- Birth certificate
- Document proving nationality and marital status
- Certificate of good behaviour
- Identity photograph
- Statement of your position regarding any military service obligations (or reserve status)
- When married, last payslip of the husband/spouse and if not employed a declaration on honour of non employment
- Birth certificate of dependent children
- Divorce, legal separation or maintenance judgements
- Financial Identification of a Belgian bank account

7/ Information to be given to data subjects

Following his recruitment the data subject receives a statement providing that his data are processed in accordance with Regulation 45/2001, giving the name of the data controller, informing of the possibility of access and rectification of his/her data and providing information about the retention period, legal basis and right to complaint to the EDPS at any time.

See attachment 3.

In addition, and in accordance with the Staff Regulations, staff members have permanent access to their personnel files. They also have the right to rectify any inaccurate data. This right is also valid after having their termination of service with the Agency. All documents contained in the personnel files are registered, numbered and filed in serial order. The documents shall not be cited or used by the Agency against the staff member unless they were communicated to him before they were filed.

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

The receipt of a statement (see above). In addition, data subjects are granted access to their personal files at any moment as well as right to rectify any inaccurate data. They can also block, erase or object on the basis of justified reasons, that have to be accepted. The request should be done in general by written but some oral requests of access are also accepted.

9/ Automated / Manual processing operation

Both. Concerning manual processing, personal details collected from selected candidates are processed so as to enable the three following actions:

I) Organise medical aptitude visits with the Agency's medical councillor;

II) Data processed are limited to what is needed to make appointments between the data subject and the medical councillor of the Agency. The Agency only organises the appointments. It does not get any medical details pertaining to the appointment. These are directly exchanged between the individual and the medical service. Constitution of personnel files;

These contain all of the personal details obtained from the staff member and are administered by the HR Sector. While the files are paper based, the HR sector also maintains electronic copies of certain documents. Some data are also kept in a database (SIC Personnel) for the purpose of administering the career, mission and annual leave of the new staff member. Each of the three repositories is access protected with access limited to HR staff.

III) Provide PMO with the personal details necessary for establishing the rights and benefits and updating their payroll system.

Only those data required for determining statutory rights are forwarded (by the HR sector) to PMO which is contracted by the Agency for this purpose as well as for updating the payroll inter-institutional system and sending the details back to the Agency for filing in the personal files of staff and verification of the salary accuracy.

Regarding automated processing of staff data takes place using SIC Personnel and SYSPER. These are used respectively for a) the administration of staff careers, annual leave and missions and b) for processing of the EACI payroll

Strictly speaking the former processes take place after the entry into force of the staff members rather than during the recruitment process under review in the present notification form.

10/ Storage media of data

Only secured applications with restricted access (EU CV ONLINE, CARL) are used. Electronic data is access A37; where paper copies are used.

The personal files are kept under key with access restricted to HR staff.

11/ Legal basis and lawfulness of the processing operation

Regulation (EC) No 45/2001, Article 5(a): the processing is necessary for the legitimate exercise of official authority vested in the Community institution or body and/or the processing is necessary for the performance of a task carried out in the public interest on the basis of the Treaties or other instruments adopted on the basis thereof.

In addition, the process is lawful under Article 5 (d) meaning that the data subject has unambiguously given his or her consent.

The process is also lawful under Article 5 (d) as the recruitment procedure is based on and made in accordance with the Staff Regulations.

<p>12/ The recipients or categories of recipient to whom the data might be disclosed</p> <p>The data contained in the recruitment file are disclosed to</p> <ul style="list-style-type: none"> - the staff members in the HR sector - the Agency's Appointing Authority - Pay Master Office (PMO on the basis of a Service Level Agreement) and the Medical Service of the Commission (on the basis of a Service Level Agreement). On those two cases, the recipients will be informed <i>shortly</i> (in the communications that will take place at the beginning of the year 2009) of their obligation to not to use the data received for other purpose than the one for which they were transmitted in accordance with Article 7(3) of the Regulation. They will also be reminded of their obligation of security and confidentiality. - Upon request, the staff member himself for consultation
<p>13/ retention policy of (categories of) personal data</p> <p>Personnel files are kept and updated throughout the active service of the staff member. The personal files of official, contract and temporary agents will be retained for a period of ten years as of the termination of the employment or as of the last pension payment slip is sent.</p>
<p>13 a/ time limits for blocking and erasure of the different categories of data (on justified legitimate request from the data subject) <i>(Please, specify the time limits for every category, if applicable)</i></p> <p>Usually immediate but at maximum within 5 working days</p>
<p>14/ Historical, statistical or scientific purposes <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 can be kept for statistical reasons but in a form that does not permit identification. In principle 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> <ul style="list-style-type: none"> <input type="checkbox"/> Article 27.2.(a) Processing of data relating to health and to suspected offences, offences, criminal convictions or security measures, <input checked="" type="checkbox"/> Article 27.2.(b) Processing operations intended to evaluate personal aspects relating to the data subject, <input type="checkbox"/> Article 27.2.(c) Processing operations allowing linkages not provided for pursuant to national or Community legislation between data processed for different purposes, <input type="checkbox"/> Article 27.2.(d) Processing operations for the purpose of excluding individuals from a right, benefit or contract, <input type="checkbox"/> Other (general concept in Article 27.1)

17/ Comments

Please find enclosed three attachments: (1) privacy statement; (2) Service Level Agreement with PMO and (3) Service Level Agreement with the Medical service. Please note that data revealing racial or ethnic origin, data revealing political opinions, data revealing religious or philosophical beliefs, data revealing trade union membership, data revealing health or sexual orientation are treated only in as much as these data appear "spontaneously" in the curriculum vitae they are processed for consultation purposes only. For example, some curriculums may contain a photo of the person which may reveal his racial or ethnical origin or some indication about his/her religious or philosophical beliefs.

PLACE AND DATE: Brussels 22.12.2008

DATA PROTECTION OFFICER: Elena Fierro

INSTITUTION OR BODY: Executive Agency for Competitiveness and Innovation (EACI)