

REGISTER NUMBER: 549

NOTIFICATION FOR PRIOR CHECKING

Date of submission: 18/11/2009

Case number:2009-759

Institution: CPVO

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. Carlos GODINHO
Community Plant Variety Office
3, Boulevard Foch
B.P. 10121, F-49101 ANGERS cedex 02

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

CPVO Human Resources service

3/ Name of the processing

Promotion of the CPVO's permanent staff members

4/ Purpose or purposes of the processing

The purpose of the processing operation is to take a decision about the promotion of an official based on the average career plan and general assessment of the official in the annual career development report (CDR).
In accordance with Article 45 of the Staff Regulations, promotion shall be by decision of the Appointing Authority. It shall be effected by appointment of the official to the next higher grade in the function group to which he/she belongs. Promotion shall be exclusively by selection from among officials who have completed a minimum of two years in their grade after consideration of the comparative merits of the officials eligible for promotion. When considering comparative merits, the Appointing Authority shall in particular take account of the reports (career development reports) on the officials.

5/ Description of the category or categories of data subjects

Officials employed by the CPVO.

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 collected from:

a) The CDR (cf. annex 1):

- surname and first name;
- personal number;
- current grade;
- period covered by the career development report;
- date of the career development interview;
- name of the reporting officer and counter signing officer;
- job description (including job title, purpose of the job, main work areas/responsibilities in order of importance, plus % time allocated to each area and resources managed);
- self assessment (including achievement of work objectives for the period and achievement of personal development objectives for the period);
- reporting officer's assessment (including achievement of work objectives for the period, achievement of personal development objectives for the period, assessment of performance against criteria);
- information concerning the ability to work in a third language (in accordance with the general rules);
- interest shown in and suitability for the attestation or certification procedure;
- forward job and development plan;
- signatures from the reporting and countersigning officer, the jobholder and the president;
- the overall summary of the jobholder's performance.

b) The eligibility for promotion table (cf. annex 2):

- name;
- current grade;
- date of entry to current grade;
- starting date/last promotional date;
- promotable year (according to the Staff Regulations);
- average career plan (in years).

c) The decision of the President on promotions (cf. annex 3):

- name;
- personnel number;
- current grade and step;
- promotional grade and step.

7/ Information to be given to data subjects

The data subjects are informed about the promotion exercise once the list of eligible officials (cf. for an example annex 4) is published in the office, in the canteen and on the Intranet. The decision on promotion rules for Officials can also be found in the "Vademecum of the CPVO procedures" (cf. annex 5). This Vademecum is available to all staff on the CPVO intranet.

The documents in the intranet (cf. annexes 6 and 7) point out, inter alia, that the institution is obliged to inform the data subject. Details are given on how the data subject can obtain information: questions can be put by e-mail directly to the DPO or to the controller; the inventory of processing operations is also published on the intranet. Recourse to the EDPS is also mentioned.

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

Upon request to the data controller, the official may always have access to his/her personal file and receive a copy of the CDR and the promotion decision. Once finalised and signed, the final documents cannot be modified.

9/ Automated / Manual processing operation

The processing operation is partly automated and partly manual. The eligibility for promotion table is sent electronically by email to the different contributors (reporting and countersigning officers) together with data protection information (cf. annex 8).

The data are collected in the CDR (cf. annex 1), in the table on eligibility for promotion (cf. annex 2) and in the decision of the President on promotions (cf. annex 3). A list of the names of all eligible officials shall be drawn up, by function group and grade, and circulated to all staff in the Office (cf. annex 4). Any official believing that their name has been incorrectly omitted may submit a complaint to that effect within two weeks of such circulation. In cases of dispute, the Appointing Authority shall take the final decision as to the eligibility of an official. In order to ensure uniformity in the evaluation of official by different reporting officers, the reporting and countersigning officers involved in the preparation of all annual CDR's, which relate to officials eligible for promotion, shall meet to consider the comparative merits of the officials concerned. A person nominated by the Staff Committee (not necessarily being a member of the Committee) shall attend the meeting as an observer. The Human Resources shall act as secretary to such a meeting. Before the promotions are granted, the opinion of the Staff Committee shall be sought as to the conduct of the exercise.

10/ Storage media of data

The paper copies of the final CDR and the promotion decision are kept in the personal file of the official in the HR Department. Only the official and the HR officer and her/his replacement have access to the data.

The report and decision are also kept in electronic format in Docman (electronic storage of documents) which is accessible only to the HR officer, his/her replacement and the IT administrators via a password.

Documents to be included in Docman are scanned directly by HR.

The eligibility for promotion table is stored on the computer of the HR officer. Only this officer and her/his replacement has access to the computer via a password.

11/ Legal basis and lawfulness of the processing operation

Article 45 and 46 of the Staff Regulations;

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

The data may be disclosed to the official subject to the promotion exercise, the reporting and countersigning officers, the HR Officer and her/his replacement and the President.

The data might be disclosed to the Internal Audit Service and the Court of Auditors in the event of an audit or financial control.

13/ retention policy of (categories of) personal data

In accordance with the "Decision of the President on the conservation of personal files", of 1 September 2008 (cf. annex 9), all personal data, including evaluation reports, promotions and reclassification decisions, will be destroyed after a period of 10 years from the date of the end of contract of the staff member. These provisions do not apply to administrative data stored in the "pension" part of the personal file containing a summary of the employment history of the staff member at the CPVO as well as all correspondence related to the staff member with the Pension Unit of the Commission. For these data, the conservation period is extended to 10 years after the date of retirement of the (former) staff member.

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)

No procedure adopted. A request to block or erase data would be dealt with on a case by case basis.

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.

N/A/

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

Certain data (name, personnel number, grade and step) are transferred to the Office for the administration and payment of individual entitlements.

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

Appraisal reports contain a lot of personal data and evaluate the official in relation to the promotion exercise. If the data would not be processed in a controlled manner and to a restricted number of persons, the integrity of the official would be at risk.

AS FORESEEN IN:

Article 27.2.(b)

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

Article 27.2.(c)

Article 27.2.(d)

Other (general concept in Article 27.1)

17/ Comments

Regarding the retention policy, CPVO took under consideration not only the Decision of the President (cf. 13/), but also the opinion EDPS has given on a similar case: Case 2007-354, 7 January 2008, Comité des Régions.

PLACE AND DATE: Angers

DATA PROTECTION OFFICER: Véronique Doreau

INSTITUTION OR BODY: CPVO