

**REGISTER NUMBER: 711**

**NOTIFICATION FOR PRIOR CHECKING**

Date of submission: 06/07/2011

Case number: 2011-0661

Institution: ERCEA

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

ERCEA, Pablo Amor, Director ad interim, COV 23/112, B-1049 Brussels

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

ERCEA, Jose Labastida, Head of Department B, Scientific Management, COV 22/127, B-1049 Brussels

3/ Name of the processing

IDEAS - Exclusion of independent experts by applicants

4/ Purpose or purposes of the processing

Commission Decision 2010/767/EU of 9 December 2010 (OJ L 327, 11.12.2010, p. 51-70) foresees the possibility for applicants submitting project proposals to request that a specific person would not act as peer reviewer in the evaluation of their proposal. The purpose of the processing is to guarantee a fair, equal and objective assessment of project proposals, and neutralize applicants' concerns on the correctness of the evaluation outcome and the objectivity of experts.

5/ Description of the category or categories of data subjects

Independent experts supporting ERCEA in the peer review evaluation of frontier research proposals and review of funded projects. They can be Panel reviewers or Remote Referees.

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

The experts' data which are meant to be collected and further processed are:

- Name of the expert(s)
- Research Institute/University/Employer
- Ground and specific reasons referred to by the applicant's request for exclusion (free text field)

The specific reasons for requesting the exclusion are based on clear grounds, as:

- Direct Scientific Rivalry;
- Professional Hostility;
- Similar situation which would impair or put in doubt the objectivity of the potential evaluator.

The reasons can be subjective statements and appreciations by applicants requesting the exclusion. But mainly they should be focused on the identification the scientific article(s), study(ies), publication(s) which unambiguously prove the situation impairing the objectivity of the potential experts.

7/ Information to be given to data subjects

Information to the data subjects: the applicant guides, peer reviewers guide, and a dedicated website page shall explain the overall exclusion system and provide the necessary information on the controller, the purpose, the categories of data, the recipients, the right of access, the legal basis, and retention periods. A Specific Privacy Statement has been prepared, and will be available on the website (copy hereby enclosed).

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

The expert's right to know about their exclusion from an evaluation will be guaranteed; however, no automatic individual information to experts (except in case of concerned active Panel member actually working with ERCEA) is foreseen, which would be impossible and disproportionate.

The expert's right to know about their own exclusion (or request for exclusion) from an evaluation will be guaranteed as follow:

- (i) the concerned member of a Panel is informed by the relevant Panel Chair on a bilateral ground - with the presence of an ERCEA agent;
- (ii) any expert may ask to the ERCEA to get information regarding him/her, upon closure of the evaluation exercise. However, the expert may experience a limitation to his/her right of access, ex article 20 of Reg. 45/2001. This will have to be handled case by case.

The expert's right to rectify information kept by ERCEA can be exercised as follow: after closure of the whole proposals evaluation exercise, upon expert's acknowledgement of the information regarding him/her kept by ERCEA, he/she can send to ERCEA a statement balancing the subjective appreciation by applicant(s).

The rights for blocking, asking the erasure, and objecting will be exercised according to articles 15 and 16 of Reg. 45/2011, by contacting the ERCEA in written via the dedicated functional mailbox [ERC-EXPERTS@ec.europa.eu](mailto:ERC-EXPERTS@ec.europa.eu)

#### 9/ Automated / Manual processing operation

The electronic tool through which data will be collected and processed is the Electronic Proposal Submission Service (EPSS) . The applicant will introduce the experts' data in Part A of the application form. Data will be also further processed via excel tables, when Scientific Officers (ERCEA staff members carrying out the preliminary check of applications) will be called to carry out a manual/visual check for single projects to be evaluated and attributed to pertinent thematic Panels.

The evaluation process foresees also the Web Evaluation Tool (WET), constituted by different interfaces which allows to proceed with the evaluation steps according to the different roles of actors involved designed on the "need-to know" principle (see more details in the enclosed annexes). Indeed, the ERCEA staff members (Scientific officers) access a wider range of data than the panel members, which are not allowed to seeing the project section containing the reasons for exclusions.

To complete the process, there is a suite of internally managed applications, to which only authorised ERCEA staff access.

#### 10/ Storage media of data

The data are collected as part of the applications for grants, through the EPSS (Electronic Proposal Submission Service). All proposals are encrypted until the deadline, decrypted by the call coordinator and provided to ERCEA on optical support. After upload into ERCEA database, data are made available to the relevant staff through a suite of internally managed applications and to the experts appointed by ERCEA to evaluate proposals through a dedicated Web Evaluation Tool. After the evaluation has finished, the proposals are uploaded together with the results of the evaluation in ESS (Evaluation Support Service). All data is also automatically uploaded into CORDA (Common Research Data Warehouse) managed by the Commission.

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

The legal basis of the processing are:

- Art. 182 TFEU
- Art. 294 TFEU
- Decision n. 1982/2006 of the EP and the Council concerning the FP7
- Regulation (EC) n. 1906/2006 Rules of participation of undertakings, research centres and universities
- Council Decision 2006/972/EC concerning the specific programme Ideas
- Commission Decision 2007/134/EC establishing the ERC
- Commission Decision (2011/12/EU) of 12 January 2011 amending Decision 2007/134/EC establishing the European Research Council
- Commission Decision C(2007)2286 ERC rules for the submission of proposals and the related evaluation, selection and award procedures relevant to the Ideas Specific Programme
- Commission Decision (2010/767/EU) of 9 December 2010 amending Decision C(2007) 2286 on the adoption of ERC Rules for the submission of proposals and the related evaluation, selection and award procedures for indirect actions under the Ideas Specific Programme of the Seventh Framework Programme (2007 to 2013)
- Regulation (EC) n. 58/2003 laying down the statute for executive agencies
- Commission Decision 2008/37/EC setting up the ERC Executive Agency (ERCEA)
- Commission Decision C(2008)5694 delegating powers to the ERCEA

In particular, Commission Decision 2010/767/EU of 9 December 2010 foresees the possibility for applicants submitting project proposals to request that a specific person would not act as peer reviewer in the evaluation of their proposal. This request has to be accompanied by specific reasons based on clear grounds. The Decision at footnote 6 lists the following:

- Direct Scientific Rivalry;
- Professional Hostility;
- Similar situation which would impair or put in doubt the objectivity of the potential evaluator.

The processing "Exclusion of experts by applicants" to be performed by the ERCEA intends to implement this provision.

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

Department B indicated as the recipients of the experts' data the authorised staff of ERCEA Departments B and C (mainly Scientific Officers), authorised staff of the Commission, and the competent Panel Chair who is committed to confidentiality by signing their appointment letter.

13/ retention policy of (categories of) personal data

The retention policy is the one linked to the evaluation process in line with Commission document SEC(2007)970 (i.e. experts' data mentioned in rejected project applications maximum 3 years; experts' data mentioned in successful projects maximum 10 years). This allow to respect also the requirements linked to the ex-post audit and possible complaint/recourse against the evaluation outcome.

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)*

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,*

The ERCEA is not going to create black lists of excluded experts or make cross-check between different calls. Any further statistical analysis of the reasons for request of exclusion will be anonymous.

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

n.a.

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,

Article 27.2.(b)

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

Article 27.2.(c)

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

**X Article 27.2.(d)**

**Processing operations for the purpose of excluding individuals from a right, benefit or contract, there is a specific risk, because the processing aims to potentially exclude experts from the performance of the evaluation of certain proposals received in response to a call for proposals. The possibility to be excluded by applicants can constitute an adverse impact on a possible contractual relation of experts with the ERCEA.**

**X Other (general concept in Article 27.1)**

**The exclusion could potentially create adverse effects from a reputational and/or professional perspective and been detrimental both to the excluded expert and concerned applicant (specially in case there is a strong professional rivalry or hostility between the two of them and/or the expert cooperating with ERCEA for the evaluation is unique in his Scientific field)**

17/ Comments

This notification follows the EDPS response to the consultation C 2011-590. The responsible Department B made any efforts for taking on board all EDPS recommendations and suggestions.

The ERCEA committ itself to respect the following principles:

- The exclusion will not be detrimental for the experts, both from the financial and reputational sides;
- The ERCEA is not going to create black lists of excluded experts or make cross-check between different calls;
- The public access to the experts' data is not allowed as the privacy and integrity of the individual would be undermined (e.g. professional reputation and reliability);

List of annexes:

- (1) Guide for Applicants
- (2) Guide for Peer Reviewers
- (3) Appointment Letter models (issued by Commission decision)
- (4) Web Evaluation Tool guides
- (5) Draft Specific Privacy Statement
- (6) The EPSS relevant section

PLACE AND DATE: 6 July 2011

DATA PROTECTION OFFICER: Donatella Piatto

INSTITUTION OR BODY: ERCEA - European Research Council Executive Agency