

REGISTER NUMBER: 715

NOTIFICATION FOR PRIOR CHECKING

Date of submission: 08/07/2011

Case number: 2011-0672

Institution: EACEA

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 address of the controller

Education Audiovisual and Culture Executive Agency (EACEA), Avenue du Bourget 1, BOUR, BE-1140
Brussels

Head of Unit R1 – Resources, administration & communication: Mrs Sari Vartiainen

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

Contact person: Nicole POUPART, Unit R1 - HR sector, Function: Head of Sector

Telephone number: 88793, E-mail address: nicole.poupart@ec.europa.eu

3/ Name of the processing

Internal mobility of EACEA's staff members

4/ Purpose or purposes of the processing

The processing operation is necessary for the selection procedure of the best qualified candidates according to the vacancy notice's requirements; it is necessary to organise the internal mobility procedure of staff at EACEA; to manage administratively applications and the different stages of this procedure.

5/ Description of the category or categories of data subjects

Agency statutory staff: temporary agents and contract agents in post.

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

- Personal data allowing identification of the candidate: title, surname, first name, date of birth, personnel number.
- Information provided by the candidate to allow practical organisation of interview: telephone and email address, Unit of assignment.
- Information provided by the candidate to allow assessment against the selection criteria for the prospective position: function group and grade, job title, languages, diploma and training, professional experience, and any other relevant detail the candidate wishes to add to the application.
- Motivation of candidate in applying.
- Last Career Development Report if requested by the Head of Unit to whom the vacant post is assigned.

7/ Information to be given to data subjects

Applicants to internal mobility can find information about the Privacy Policy of the EACEA in the Privacy statement published on the intranet section dedicated to Internal mobility.

The Human Resources sends an acknowledgement of receipt to all candidates. This e-mail includes a paragraph on protection of personal data and refers to the Privacy statement published on the Intranet.

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

As mentioned in the Privacy statement, each candidate can access his/her personal data and have them rectified upon a written request addressed to the data controller, sending an e-mail to EACEA-INTERNAL-MOBILITY@ec.europa.eu.

Considering the nature of the selection process, after the closing date of the respective call the right to rectify personal data is restricted to material errors.

Having regard to the secrecy which must surround the proceedings of a selection board and the established case law of EU courts, access to personal data may be limited on the grounds of Article 20, paragraph 1, of Regulation (EC) N° 45/2001

9/ Automated / Manual processing operation

Internal mobility in the Agency means moving from one Unit to another, within the same category of employment.

The internal mobility procedure include the following activities:

Publication of vacant posts:

All vacant posts for internal mobility in the Agency are systematically published by the Human Resources on the Agency Intranet, where a section is dedicated to internal vacancy publications. A specific "Privacy statement" (annexed to the notification) is published on the same page.

The publication is based on the job description and contains any specific additional requirements for the post as specified by the Head of Unit concerned.

As general rule, the deadline for application is ten working days after publication. When the deadline has expired, vacancy notices remain nevertheless available on the intranet (status "closed").

Applying for a post:

There is no standard form for applying for internal mobility. Interested candidates can apply by sending their CV and a motivation letter to the mail box EACEA-INTERNAL-MOBILITY@ec.europa.eu.

The Human Resources receive the application and send an acknowledgement receipt to all candidates.

This e-mail includes a paragraph on protection of personal data:

" In accordance with article 12 of Regulation 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data, the Human Resources sector informs that your personal data are processed in accordance with the relevant legal dispositions of the Staff Regulations of officials of the European Communities and the Conditions of employment of other servants of the European Communities. For further information regarding the processing of your personal data please refer to the Privacy statement of the Internal mobility procedure"

Eligibility check:

First of all the Human Resources sector runs an eligibility check on the received application.

The eligibility criteria are generally established as follows:

Staff members should have remained on the position held at the time of application for a minimum of 24 months before applying for a new position; furthermore they can only apply for an internal post in the same contract category, namely the same function groups (for contract agents), the same category and (at least) the same grade (for temporary agents) held at the time of application. As a exception to this rule contract agents who have already passed a selection panel for a higher function group and are on valid internal reserve list) can apply for internal mobility.

Once completed the check, the Human Resources inform by e-mail candidates who are not eligible (specifying the reason: either they have not been in the position for at least 2 years, or they are applying for a different function group) and draw up the list of eligible candidates for each vacant post. This list (electronic file) is kept by the HR in a restricted folder.

The Human Resources send an e-mail containing the CV and motivation letter of candidates applying for each specific post to the concerned Head of Unit. This e-mail includes a confidentiality reminder:

"Please be aware that the information includes personal data and is therefore considered highly confidential.

It is meant to be used for the exclusive purpose of this internal mobility procedure. Please refrain from commenting, forwarding or copying the data to any other person. In case you delegate the selection procedure or get assisted by another staff member, the recipient of the data shall be reminded of the obligation of confidentiality and that the data may only be processed for the purpose of the selection procedure. When the work involving the use of these data is finalised, please make sure to delete them and destroy any eventual hard copy".

Interview:

The concerned Head of Unit organises directly the interviews with the candidates he/she selects on the basis of the information provided.

The constitution of a selection committee is not required. Generally the Head of Unit meets the candidate alone; sometimes a head of sector or a representative of the concerned team is invited to participate to the meeting.

The use of selection forms is not required. The Head of Unit shall follow the general guidelines provided by the Human Resources, and the questions shall reflect the specific requirements of the position, as specified in the job description and the published vacancy. Interview guidelines are provided by the Human resources. Upon request of the concerned Head of Unit, the Human resources may provide the last career development report of the jobholder.

Selection:

Once concluded the meetings with the candidates, the Head of Unit informs the Human Resources of the outcome (which candidates were invited to the interview, choice made etc). In principle, the selection is exclusively based on the oral interview. No evaluation sheet corresponding to the Interview is held, nor are any rankings or general conclusions established. No report is established.

Mobility:

Once the Head of Unit has agreed with the Director the recruitment of a candidate for a specific post, he/she informs by e-mail the Human Resources, in charge of the administrative follow up.

The Human Resources:

- inform by e-mail non selected applicants of the outcome of their application (the HR do not specify in the e-mail the reasons for the candidates not being selected; in fact it is up to the concerned Head of Unit to contact them by telephone and inform them of these reasons);
- send the AIPN decision on the new assignment to the staff concerned (copy of the decision is filed in the staff personal file) and introduce the new assignment in Sysper2;
- organise the transfer of the concerned person between the two Units.

10/ Storage media of data

Documents containing personal data are stored

1) electronically – Human Resources set up an electronic dossier containing:

- a list of published posts and names of applicants for each post (eligible and ineligible). At the end of each year, personal data of candidates are removed from the file, which is still kept for historical/statistical purposes, containing the title of the post, the Unit, the number of applications received.

- a folder for each post containing the CV and motivation letters. This folder will be kept for 2 years after the mobility (as of the date of the transfer to the new Unit).

2) hard copy – the concerned Head of Units might print out CV and motivation letters of applicants and use them during the interview phase. They are nevertheless requested to destroy all copies (of successful and unsuccessful candidates) made once the selection is concluded.

3) The Human Resources do not keep any hard copy of the mobility procedures. Only the final decision of mobility, signed by the Director, is kept in the personal file of the staff concerned.

11/ Legal basis and lawfulness of the processing operation

Legal basis

Council Regulation (EC) N° 58/2003 (laying down the statute for executive agencies): Article 11, paragraph 6, and Article 18.

Commission Decision C (2009) 3355 final of 6 May 2009 (delegating powers to EACEA)

- Under Article 2, in performing its tasks the Agency shall comply with the rules in force, in particular, among others, Council Regulation (EC) No 58/2003 (laying down the statute for executive agencies) and the conditions of employment of other servants of the European Communities;
- Under Article 6, paragraph 5, the Agency shall draw up a system of human resources management which guarantees the proper performance of the tasks entrusted to it.

Staff Regulations of officials of the European Communities and the Conditions of employment of other servants of the European Communities (CE, CECA, Euratom) N° 23/2005)

- Article 4: "No appointment or promotion shall be made for any purpose other than that of filling a vacant post as provided for in these Staff Regulations. Vacant posts in an institution shall be notified to the staff of that institution once the appointing authority decides that the vacancy is to be filled."
- Article 7, paragraph 1: "The Appointing Authority shall, acting solely in the interest of the service and without regard to nationality, assign each official by appointment or transfer to a post in his function group which corresponds to his grade. An official may apply for a transfer within his institution."
- Article 29, paragraph 1, "Before filling a vacant post in an institution, the Appointing Authority shall first consider : (a) whether the post can be filled by (i) transfer or"

Internal mobility policy, approved by the EACEA Direction meeting of the 17/11/2008.

Grounds for lawfulness

Regulation (EC) No 45/2001, Article 5, point a), in conjunction with Recital 27:

The processing is necessary for the performance of a task carried out in the public interest on the basis of a legal instrument adopted on the basis of the Treaties establishing the European Communities (Commission Decision 2009/336/EC setting up the EACEA); in particular, it is necessary for the management and functioning of the Agency.

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

Human Resources sector, the Head of Unit to whom the vacant post is assigned, the Head of Sectors or designated member of the concerned teams (if delegated by the Head of Unit), the Authority empowered to conclude employment contracts (the Director).

In case of control or dispute, the supervisory instances of EACEA (i.e. European Commission, European Court of Auditors, OLAF etc.) and the judicial authorities (i.e. EU Courts, Ombudsman etc.).

13/ retention policy of (categories of) personal data

When the selection is concluded, Head of Units have to destroy immediately hard copies of documents (CV and motivation letter of applicants)

The Human Resources keep the electronic file of each mobility exercise for 2 years after the mobility (as of the date of the transfer to the new Unit).

An excel file, including all vacant posts without any personal data is kept for statistical purposes by the HR. Only the final decision on mobility is kept in the personal file of the concerned person.

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)

Blocking:

According to Article 13, paragraph 3, of EACEA's Implementing rules of Regulation 45/2001: the Controller has to assess as soon as possible whether to block the data or not within 15 working days after reception of the request. If the request is accepted, the Controller has another 30 working days to implement the technical blocking of the personal data.

Erasure:

Max. 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,

Data are kept for historical and statistical purposes in an anonymous form.

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*):

The processing operations that occur in the context of the mobility of staff employed at EACEA require evaluating the capacity of staff members (Temporary agents or contractual agents) for a given position. In order to carry out such an evaluation, the data controller and the concerned Unit perform various assessment activities related to the CVs and other professional experience, weighing up the capacities of certain staff members for given positions, judging his/her performance from interviews and from other information.

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,

Article 27.2.(d)

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

Other (general concept in Article 27.1)

17/ Comments

Regarding the details described in this notification, EACEA took good note of the EDPS opinions on the Office for the Harmonisation of the Internal Market regarding internal mobility (Case 2008-426), the European Investment Bank (Case 2009-253) and the "EDPS guidelines concerning the processing operations in the field of staff recruitment" of 10 October 2008.

Annex to this notification form:

- Privacy statement published on EACEA's Intranet
- EACEA's Mobility procedure of 17 november 2008
- EACEA's internal guidelines for the Mobility procedure

PLACE AND DATE: Brussels, 8 July 2011

DATA PROTECTION OFFICER: Hubert Monet

INSTITUTION OR BODY: Education, Audiovisual, Culture Executive Agency (EACEA)