

REGISTER NUMBER: 750

NOTIFICATION FOR PRIOR CHECKING

Date of submission: 17/10/2011

Case number: 2011-0938

Institution: FRA

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

Paul COZZI (Head of Human Resources and Planning)
European Union Agency for Fundamental Rights (FRA)
Schwarzenbergplatz 11, 1040 Vienna

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

Paul COZZI, Head of Human Resources and Planning
Human Resources

3/ Name of the processing

Performance appraisal of staff members (temporary agents and contract agents)

4/ Purpose or purposes of the processing

To evaluate personal aspects relating to the data subject namely, the ability, efficiency and conduct in service of the respective staff members

5/ Description of the category or categories of data subjects

Data subjects are staff members of FRA, i.e. temporary agents and contract agents, who are in active service for a continuous period of at least one month in the reference period.

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

Name, personnel number, job title, department, category, grade, step, period of employment in FRA (See Annex 1 - Career Development Report form). The CDR also includes a section on self-assessment and on personal development that must be filled in by the jobholder, i.e. the data subject/person assessed (i.e. Part A) and a section 3 that must be filled in by the reporting officer and the countersigning officer (i.e. Part B). The objectives referred to under section 1 of part A are defined and agreed by both the jobholder and the reporting officer in the Career Development Report (CDP) (see Annex 4). The personal data the CDP contains is: name, department, job title, position, category, grade, step, date since the data subject holds the position and personnel number. Part B of the CDR refers to the reporting officer's assessment containing assessment of efficiency, abilities, conduct in service, assessment of the potential as well as his signature; the countersigning officer's assessment and signature; the jobholder's eventual comments and signature and; the countersigning officer's further review and signature (if applicable) and the jobholders' any additional comments and signature.

Because the appraisal exercise is annual, the personal data are up to date and accurate.

7/ Information to be given to data subjects

Each year the Agency appraises the performance of its staff via an individual report, namely the Career Development Report. The performance appraisal exercise is launched by HR via a notification to the reporting officers (See Annex 2). The data subjects or persons to be assessed are informed by HR on the launching of the appraisal exercise at the same date as the reporting officers (See Annex 3). From that moment, jobholders are invited by the reporting officers to produce a self-assessment report which is included in the career development report part of the report (Part A of CDR). Instructions and an indicative timetable for the exercise are given by the guidelines for the performance appraisal exercise. The first phase of the performance appraisal system is the performance planning. This is done with the establishment of the CDP at the beginning of each year and it is a performance plan for a reporting year that involves agreeing objectives, personal development goals, assessment criteria and standards for competencies and conduct and, a training plan.

The guidelines for the performance appraisal exercise include information on:

- the purpose for which personal data are collected
- the legal basis of the processing operation
- data categories in the CDR form
- the identity of the data subjects
- that participation in the appraisal process is mandatory and voluntary only for the jobholders who left the FRA in the year of the appraisal or who are going to leave in the year that the appraisal takes place
- the recipients of the data, that is the reporting officer (i.e. the Heads of Departments and the Director for the staff working at Directorate and the Heads of Departments) and the countersigning officer (i.e. the Director)
- details of the report's content, the data collected and the marking scheme
- that the final version of the CDR will be held on the jobholder's personal file

Within 15 working dates of the jobholder submitting a self-assessment, the reporting officer and the jobholder shall engage in a dialogue. The objectives of the dialogue include:

- reviewing the staff member's work and duties during the reference period (including any performed in other departments) and any problems that may have been encountered;
- assessing the staff member's strengths and identifying any areas where there is a need for improvement;
- identifying problems and looking for solutions;
- considering the particular wishes of the person assessed and all aspects of professional development.

Immediately after the dialogue has been held, the reporting officer shall draw up a draft career development report which shall include appraisals of efficiency (performance), abilities and conduct of the person assessed in the service during the reference period which is consistent with the indications given during the dialogue.

Then the reporting officer forwards the report to the countersigning officer and to the jobholder for comments and signature. The jobholder has five working days to accept the final report or to reject it. If the jobholder refuses to accept the report, the countersigning officer must hold a dialogue with the jobholder. The reporting officer may be present at the request of the jobholder or the countersigning officer. After this dialogue the report should be passed, in a sealed envelope, to Human Resources for filing in the personal file of the jobholder.

Any request for appeal is to be referred to the FRA Appointing Authority and all documents are added to the personal file of the person assessed.

Appraisal reports are treated in strict confidence at all times. No unauthorised individual or organisation is allowed access to the report without the jobholder's permission.

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

The data subjects have the rights of access and rectification.

Within the performance appraisal procedure, data subjects are provided with a copy of their reports and are invited to make comments on them before they are finalised. They can also obtain access to all the documents in their personal file even after leaving the service as provided for in Article 26 of the Staff Regulations, as well as Articles 11 (1) and 81 of the CEOS. Access to personal file is requested in any written way such as e-mail, note, etc.

The rectification of the factual data processed is possible upon request to the HR, whereas the evaluation data can be rectified within an appeal procedure. In any case, the revised reports are being added to the personal file.

The data subjects have the right to have recourse at any time to the European Data Protection Supervisor at <http://www.edps.europa.eu>

9/ Automated / Manual processing operation

The processing of the information is done manually on paper with the Career Development Report (CDR).

10/ Storage media of data

File system: storage of data in safes with restricted access to HR staff.

11/ Legal basis and lawfulness of the processing operation

Articles 15 (2) and 87 (1) of the Conditions of Employment of Other Servants-CEOS and Article 43 of the Staff Regulations.

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

The recipients are: the Heads of Departments who are acting as reporting officers and the Director of FRA who is acting both as reporting officer for the staff working at the Directorate and the Heads of Departments, the countersigning officer and the HR staff in charge.

13/ retention policy of (categories of) personal data

The Career Development Reports are filed in the personal files of the data subjects. The retention period of the personal files is 20 years after the end of the period during which a staff member is in active employment or the last pension payment (see FRA's reply on 28/09/2011 to the EDPS's Joint Opinion 2010-0071).

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)

N/A

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

N/A

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

AS FORESEEN IN:

Article 27.2.(b)

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

17/ Comments

List of Annexes:

Annex 1 - Career Development Report (CDR)

Annex 2 - Launching of the appraisal exercise

Annex 3 - information to data subjects on launching appraisal exercise

Annex 4: Career Development Plan and Guide

PLACE AND DATE: Vienna 14/10/2011

DATA PROTECTION OFFICER:N. Fikatas

INSTITUTION OR BODY: FRA