

REGISTER NUMBER: 753

NOTIFICATION FOR PRIOR CHECKING

Date of submission: 21/10/2011

Case number: 2011-0952

Institution: CFCA

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

Niall McHale, Head of Unit Resources, Community Fisheries Control Agency, Avda. Garcia Barbon, 4, E-36201 Vigo

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

Unit Resources, Human Resources Section

3/ Name of the processing

Staff evaluation (Staff appraisal, Probationary reports, Reclassification of temporary agents)

4/ Purpose or purposes of the processing

The purposes of the processing are the evaluation of the performance of the tasks carried out in the first months of service (**probationary period**) and yearly (**staff appraisal**), and to ensure a career development of the staff within the Agency closely linked to their performance, merit and individual aptitude (**reclassification of TA**).

5/ Description of the category or categories of data subjects

Staff appraisal - all temporary and contract agents in active service or on secondment in the interests of the service for a continuous period of at least one month in the year, and engaged for a period of not less than one year, have to be appraised; **Probationary reports** - all temporary and contract agents; **Reclassification of temporary agents** - all temporary agents (not the Executive Director).

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

The data processed within the three procedures mentioned is: personal data (name); data related to the service (PN, job title, unit, contract type and grade, history of career at CFCA); data related to the performance (assessment and merit points). In case of data concerning health (probationary period), the related data is processed separately from the probationary report in the form of a note.

7/ Information to be given to data subjects

The information regarding the identity of the controller, the purpose of the processing, the data categories, the possible data recipients, the existence of rights of access, rectification and recourse to the EDPS, the legal basis of the processing and the applicable data retention periods is provided in the global HR privacy statement for staff published on the intranet (Annex I). A link to the global privacy statement is provided in the respective individual e-mail to staff at the time of sending the invitation request for the **probationary report** to the staff member and his/her superior and, for the **staff appraisal**, at the beginning of each year in the e-mail from the HR to the reporting officers (RO) and the job holders for delivery of their self - assessment to their RO and, for the **reclassification** at the moment the HR Section informs staff individually of the number of points that the Management Committee proposes for the year under consideration, of the cumulated points and of the status regarding the knowledge of a third language.

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

In general, the rectification of factual data is possible upon request to the Controller, whereas the (by nature subjective) evaluation data can be rectified within the respective appeal procedures. Once the **probationary report** is countersigned, a pdf copy of it is sent to the staff member by HR, the original of the report is archived in the personal file. Regarding the **appraisal reports**, staff is invited to make comments and sign the report in the HR office. Once it is finalised, a pdf copy of it is sent to the staff member by HR, the original of the report is archived in the personal file. In case of an appeal procedure (Art. 7 of AB Decision 11-W-03 of 23/06/2011 herewith enclosed as Annex II), the revised reports are added to the personal file and the staff member is informed by sending a pdf copy of the revised report to him/her. Within the **reclassification procedure**, the HR Section informs staff individually of the number of points that the Management Committee proposes for the year under consideration, of the cumulated points and of the status regarding the knowledge of a third language (AB Decision 11-W-07 of 16 September 2011 herewith enclosed as Annex III).

The staff member has the possibility to appeal in the following way: Within the ten working days following the communication of the statement on merits for reclassification to the staff, the agent can lodge an appeal to the JEC. The JEC submits possible opinions on the appeal to the ED. The Executive Director definitively fixes, through informing the HoU – A Resources accordingly, the number of points allocated to each agent after having taken note of the proposals of the Management Committee and of the possible opinions of the JEC. For the procedure on the probationary period, management probationary period and appraisal of the Executive Director, please refer to Annex IV (AB Decision 09-II-06(1)).

Concerning each of his/her respective evaluations, the Executive Director is duly informed of the global HR privacy statement published on the Intranet.

9/ Automated / Manual processing operation

The data is processed manually in the aspect of the collection of the signatures and comments on the reports, and archiving in the personal files and automated processing is applied for the summarising of the data in the reports as regards the evaluation and merit points (Excel), elaboration of letters, lists, decisions (Word). A complete description of the procedures is annexed to this form (see Annexes V, VI, VII). During the establishment of the probationary report, management probationary report and appraisal report of the Executive Director, confidentiality requirements are respected as described in Annexes V and VI.

10/ Storage media of data

All data is stored in the paper personal files, section "Documents related to reports on capabilities" and in the electronic personal files, both accessible only for HR staff and the controller.

11/ Legal basis and lawfulness of the processing operation

Article 5(a) of Regulation 45/2001, data processing clearly in the public interest. The legal bases for the respective data processing operations can be found in the Staff Regulations (Articles 34, 43, 45 - 46, as well as Article 10(3) of Annex XIII), the Conditions of Employment of Other Servants (Articles 14, 81, 84 and 87) , as well as in the respective implementing rules adopted on a basis of Article 110 of the Staff Regulations.

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

The recipients are the following: reporting officers, countersigning officers, appeal assessors, Executive Director, HR staff members, members of the joint committees, PMO. For the evaluation of the Executive Director also the Administrative Board. Furthermore, the transfers to the Legal Officer, internal auditors, Civil Service Tribunal, EDPS and European Ombudsman may be necessary in certain cases for the performance of the respective supervisory, advisory or judicial task.

Finally, transfers of administrative and evaluation data contained in the personal files to responsible services in other EU institutions, bodies or agencies may be necessary in case of the transfer of a specific staff member.

When data is disclosed, all internal recipients are reminded of the purpose limitation obligation in terms of Article 7(3) of the Regulation 45/2001.

13/ retention policy of (categories of) personal data

- Appraisal reports: Data retention period 8 years after the end of the particular appraisal procedure. The period of retention is to justify the attributed merit points, which are relevant for the reclassification, which in the slowest case would take around 7.5 years.
- Probationary reports, reclassification decisions, as well as letters confirming the final award of the merit points: Data retention period 10 years after the termination of the employment or as of the last pension payment.
- List of names of the agent's due for reclassification and the JEC report on the reclassification exercise (which are published on the Intranet): Data retention period 5 years for audit purposes.
- In case of appeal procedures, the files are kept until all appeal channels have been exhausted, including the time limits for appeals before the Civil Service Tribunal.

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)

Legitimate requests are treated immediately and in any case not later than 15 days from the date of receipt of the request.

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*):

It is intended to evaluate personal aspects relating to the data subject; namely, the ability, efficiency and conduct of the respective staff members

AS FORESEEN IN:

x Article 27.2.(b)

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

17/ Comments

none

PLACE AND DATE: Vigo, 21 October 2011

DATA PROTECTION OFFICER: Rieke Arndt

INSTITUTION OR BODY: Community Fisheries Control Agency