

**REGISTER NUMBER: 757**

**NOTIFICATION FOR PRIOR CHECKING**

Date of submission: 21/10/2011

Case number: 2011-0956

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

The Controller is the Director, assisted by the Co-controller Head of Unit D2

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

Unit D2 – Human resources, Infrastructure and Document Management

3/ Name of the processing

ERCEA Reclassification (Promotion)

4/ Purpose or purposes of the processing

The Reclassification (Promotion) exercise aims at rating the jobholder and giving him/her the opportunity to advance to the next higher grade in the function group to which he/she belong

5/ Description of the category or categories of data subjects

Contractual Agents and Temporary Agents who have completed their probationary period and are in active employment for at least 2 year in their grade.

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

The processing uses the data of the Annual Appraisal:

=> Name, Last Name, Personnel number, Position both of the reporting and the countersigning officers.

=> Personal details and employment record of the jobholder (including Name, Last Name, Personnel number, Position, Status, Assignment, Administrative address, phone and fax).

=> Report Sections: Description of tasks, Achievement of objectives, Personal Development, Contribution to other activities, Efficiency, Competencies, Aspects of Conduct, Level of Responsibilities, Use of Languages, Additional duties (which might include the membership to trade unions), Overall Subjective Assessment of the reporting officer and the countersigning officer, Additional comments of the jobholder, the reporting officer and the countersigning officer; Rating with Explanation.

=>In case of appeal, the Opinion of the Joint Evaluation Committee and the Decision of the Appeal Assessor

7/ Information to be given to data subjects

A detailed intranet page provides the following information:

- Legal framework
- Practical Guide
- Compulsory time frame of the procedures for replying, requesting further dialogue or appeal.
- Contact persons
- Tailored Informative Notes from the ERCEA Director and HR team

<http://intranet.ercea.cec.eu.int/services/hr/career/Pages/home.aspx>

A Specific Privacy Statement is drafted and published on the intranet.

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

Jobholders have the possibility to access their personal file and career file by writing to the Controller or the Head of Unit Human Resources.

During the evaluation exercise a contradictory phase is foreseen allowing for rectification and/or argumentation of the objective and subjective statements of the reporting and countersigning officers (orally and in written).

If an appeal is lodged before the Joint Evaluation and Reclassification Committee (JERC), the file is analysed and an opinion formulated to the Appeal Assessor who is free to follow it or not. The jobholder is provided with the final decision of the Appeal Assessor and a standard form containing pre-fixed items to be ticked by the JERC, completed by additional comments if deemed necessary.

Where the Jobholder is unhappy with the decision of the Appeal Assessor, he may lodge a complaint article 90(2) and afterwards, bring the case before the Civil Service Tribunal

9/ Automated / Manual processing operation

Currently ERCEA cannot use the SYSPER module for appraisal, therefore the processing is manually done via e-mail (with "PRIVATE" marking) and sealed envelopes (with "CONFIDENTIAL" marking) for the major part of the exercise. The final communications to the jobholder are done via ARES with "PERSON CONCERNED" and "STAFF MATTER" markings.. The Human Resources unit record all the evaluation documents in ARES with restricted handling reserved to authorised HR staff.

In relation to the evaluation documents of seconded officials in the interest of the service (members of the ERCEA middle and senior management), as there is the double career appraisal, documents are exchanged with the parent DG R&I via e-mail (with "PRIVATE" marking) and sealed envelopes (with "CONFIDENTIAL" marking).

The main steps of the evaluation process within the Annual Appraisal and Reclassification process are the following:

- The HR unit launch of exercise by means of a note to all staff
- 1st Management coordination meeting: setting of principles of appraisal
- The HR unit makes a presentation of exercise to staff concerned
- The HR unit organises Training Module for Jobholders (JHs)
- 2nd Management Coordination meeting: it discusses common appraisal standards and performance
- HR cell sends request to JH to compile self-assessment
- The JH makes a Self-assessment
- Performance dialogue between Reporting Officer and JH: assessment of JHs performance over the reference period; setting objectives for the following reporting period and agreeing on training map
- The Reporting Officer prepares draft reports
- The Countersigning Officer checks that common standards have been applied; compares merits; confirms or amends comments
- Harmonisation meeting between managers and Director: overview of performance levels and attribution of reclassification points
- Report with performance level is printed and signed by Reporting Officer, signed by Countersigning Officer, and sent to HR "Career Development Reports" (CDR) cell
- The HR CDR cell centralises reports, prepares letters of notification for points and distributes reports and letters to JH

▫ The JH has 5 working days for Acceptance/Rejection of reports:

- (a) Accepts the report without comments
- (b) Accepts the report with comments
- (c) Refuses the report and asks for revision to the countersigning officer

If reports are refused as per point (c) above, there will be the revision procedure phase, which involves the following steps:

- Dialogue between the jobholder and the countersigning officer
- The Countersigning Officer confirms or modifies the report and performance level
- The JH has 10 working days for Acceptance/Rejection of reports.
- (a) Accepts the report without comments
- (b) Accepts the report with comments
- (c) Refuses the report: appeal to the Joint Evaluation and Reclassification Committee (JERC)

If reports are refused as per point (c) above, the appeal procedure phase starts involving the following steps:

- ▷ The JERC formulates its opinion on the appeal
- ▷ Confirmation or modification of the report by the Appeal Assessor

10/ Storage media of data

As mentioned in section 9 hereof, ERCEA cannot use SYSPER 2 module for evaluation. Therefore, career documents are stored in the personal files of Jobholders in paper format (restricted Archives) and electronic (restricted folders in the ERCEA share drive). The access is granted only to authorised staff on the "need to know" basis. The record is made also in ARES, which allows for restricted handling of documents.

11/ Legal basis and lawfulness of the processing operation

- Article 43 of the Staff Regulations and Articles 10(3) and 87 of the CEOS
- ERCEA Steering Committee Decisions StC220211/2a and StC210610/5b – copy hereby enclosed.
- ERCEA Steering Committee Decisions StC10610/5a– copy hereby enclosed.

As regards Officials Seconded in the interest of the service and the Senior Management/Agency Director, Guidelines are given by the "Vademecum" issued by DG HR SEC(2006)664 section 8 – copy hereby enclosed.

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

The recipients of data are the authorised staff of HR unit, the ERCEA Director, the ERCEA Management, the relevant Reporting and Countersigning Officers of the jobholders, the members of the Joint Evaluation and Reclassification Committee where applicable. Moreover, authorised financial agents at ERCEA and Commission Pay Master Office (PMO) have access to the administrative data necessary for the calculation and payment of the new salary amount to which the reclassified (promoted) jobholder has right.

As regards the officials seconded in the interest of the service and senior management/Agency Director, the "Career Development Report" actors of the parent DG R&I are also recipients of data.

In addition, data may be disclosed, in compliance with the relevant current legislation and established case law, and on a temporary basis to: (a) the Civil Service Tribunal, at its request; (b) the Ombudsman, at his request; (c) the European Data Protection Supervisor, at his request; (d) the audit and control bodies such as OLAF, Court of Auditors, ERCEA Internal Audit Office, the Commission Internal Audit Service.

13/ retention policy of (categories of) personal data

The Reclassification (Promotion) documents are considered integral part of the jobholder personal file (section career), for which the Common Retention Policy of the Commission – COM(2007)970 applied by analogy in ERCEA foresees the following retention period: evaluation documents are retained for 8 years after the extinction of all rights of the person concerned and of any dependants, and for at least 120 years after the date of birth of the person concerned.

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,*

The ERCEA may envisage anonymous statistical analyses with the purposes to detect weaknesses and improve the management of Human Resources. However, retention periods mentioned above in section 13 will not be increased.

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

The ERCEA does not plan to transfer data to third country or international organisations. However, it may happens that the new employer of an ex ERCEA staff member requests some information for instance for fixing entry rights, excluding the need for a probationary period, confirming the references provided by the data subject. In such a case, the ERCEA will seek the consent of the ex staff member for any transfer of data concerning him/her to his/her new employer.

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, as the reclassification (promotion) exercise aims at assessing the abilities, the conduct and the efficiency of the Jobholder and rating with "reclassification" points.**

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)**

**Moreover, even if it is not the purpose of the processing operation, the reclassification (promotion) results may lead to the exclusion from a reclassification (promotion) opportunity, subsequently also from a financial benefit.**

17/ Comments

List of Annexes:

(A)\_Decision StC220211/2a

(B)\_Decision StC210610/5b

(C)\_Decision StC210610/5a

(D)\_SEC2006\_664\_Vademecum-relatif-gestion-personnel

(E)\_SPS\_Reclassification(Promotion)

Please note that the "Staff Evaluation" and the "Evaluation of the third language" are prior checked separately with other two specific notifications.

Last, a working group composed of the six Executive Agencies' HR representatives met on a regular basis between May and July 2011 to work on the adaptation of the recent Commission Implementing Rules C(2011)1264 on the recruitment, use and evaluation of Contract Agents. Two common templates on recruitment and on evaluation were drafted. However, given the current revision of the appraisal system for official which is likely to apply to Contractual Agents, it has been decided to wait until DG HR has clear information on the appraisal system to be used in 2012.

PLACE AND DATE: Brussels, 21 October 2011

DATA PROTECTION OFFICER: Donatella Piatto

INSTITUTION OR BODY: ERCEA - European Research Council Executive Agency