

To be filled out in the EDPS' office

REGISTER NUMBER: 931

## NOTIFICATION FOR PRIOR CHECKING

Date of submission: 22/11/2012

Case number: 2012-1012

Institution: Agency for the Cooperation of Energy Regulators

Legal basis: article 27-5 of the regulation CE 45/2001<sup>(1)</sup>

<sup>(1)</sup> OJ L 8, 12.01.2001

## INFORMATION TO BE GIVEN<sup>(2)</sup>

<sup>(2)</sup> Please attach all necessary backup documents

### 1/ Name and address of the controller

Agency for the Cooperation of Energy Regulators  
Trg republike 3  
1000 – Ljubljana  
Slovenia

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

The department in charge of the processing of personal data is the Administration Department, and within the department more specifically the section of Human Resources.

#### Ms Olga Borissova, Head of Administration

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Agency for the Cooperation of Energy Regulators (ACER)  
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0931/2012-1012

**3/ Name of the processing**

Staff Recruitment of Temporary Agents and Contract Agents.

**4/ Purpose or purposes of the processing**

The main purpose of personal data collection and processing is the evaluation, selection and recruitment of staff. The processing of personal data for the purpose of selecting candidates is one intended to evaluate personal aspects relating to the data subject, including his or her ability, efficiency and conduct. The data collected from the candidates is necessary and relevant for the needs of the recruitment procedure. The details are specified in the vacancy notice in advance of the collection. The process for the selection of TAs is defined in Articles 3 and 4 of Decision AB No. 10/2011 on the adoption of general implementing provisions on the procedure governing the engagement and the use of temporary agents at ACER (Annex 1.1). The process for the selection of CAs is defined in Article 5 of Decision AB No. 11/2011 on the adoption of general implementing provisions on the procedures governing the engagement and the use of contract staff at ACER (Annex 1.2). The general legal basis can also be found in the Staff Regulations (SR) and the Conditions of Employment of Other Servants of the European Communities (CEOS), laid down by Council Regulation (EEC, EURATOM, ECSC) No. 259/68 last amended by Council Regulation (EC, EURATOM) No. 31/2005 of December 2004, and more specifically Articles 12-15 and 82-84, 86 of the CEOS.

**5/ Description of the category or categories of data subjects**

The categories of persons concerned by, or involved in, the processing of data within the framework of the recruitment procedure are candidates in the recruitment procedures for temporary agents and contract agents organised by the Agency.

**6/ Description of the data or categories of data**

Candidate's details: Name, gender, birth date, address, email, phone number, nationality, education, knowledge of languages, moral conduct, professional experience, family situation and related supporting certificates and any other information provided by the person. Pre-employment medical check-up is only applicable to recruited candidates. The data is relevant to demonstrate, in the framework of the selection procedure, that the candidate fulfils the profile advertised in the vacancy notice: CV in European format (link: <http://europass.cedefop.europa.eu/en/documents/curriculum-vitae/templates-instructions>) and motivation letter is provided by all candidates. Bank account information is requested from candidates attending the interview for travel reimbursement reasons (Legal entity and Financial identification forms are filled out – Annex 1.3 and Annex 1.4).

Additional data in case an offer letter is sent: any document verifying the candidate's technical and professional competence (diplomas, certificates of previous work experience), documents verifying nationality (passport/ID), family situation (marriage certificate, birth certificates of children), documents verifying appropriate character references (certificate of criminal record) in line with Article 12(2) of CEOS. The certificate of criminal record allows the completion of a standard form stating that the person is suitable for the performance of his duties and enjoys his full rights of citizen. The criminal record itself is returned to the person immediately thereafter (see Annex 1.5).

**7/ Information to be given to data subjects**

A Data Protection Statement is available on the Agency website informing data subjects about the nature of the data and the processing, including: controller, recipients, purpose, lawfulness, and rights of the data subjects (Annex 1.6). Furthermore, the Data Protection Statement informs candidates of the possibility to address queries or complaints to the controller in practice or the Agency's DPO, as well as the European Data Protection Supervisor.

**8/ Procedures to grant rights of data subjects**

The general rules through which data subjects can exercise their rights are laid down in Article 13 of the Agency's Implementing rules concerning data protection (Director Decision 2011-27, Annex 1.7). They include access to the DPO's register of data processing operations and requests from data subjects to the data controller to exercise their rights (as required by Articles 13-16 of Regulation (EC) No 45/2001). The Data Protection Statement attached to this notification also details the procedures in place. These are relating to: the right to verify, modify, block or delete the information (contact Administration Department, HR Section in writing to a dedicated email address), the possibility to contact the Agency Data Protection Officer through a dedicated email address, and the right to have recourse to the European Data Protection Supervisor through a dedicated email address).

#### **9/ Automated / Manual processing operation**

##### **Manual**

The staff recruitment data is subject predominantly to manual review and treatment in the phase of the selection procedure. The recruitment files of successful candidates are collected and organised in separate personnel files for each staff member. The results of the pre-employment medical check-up following the pre-employment medical check-up are also stored within the personnel file.

##### **Automated**

Electronic processing includes excel sheets which serve as aids in the management of the recruitment processes.

#### **10/ Storage media of data**

The data is processed on paper and in electronic form and is stored with access limited to authorised HR staff (electronically in the restricted access folder). Paper application files and hard copies are stored in locked cabinet in the HR section until their destruction. All copies distributed to the selection panel members for the purpose of selection, are returned to the HR section after the conclusion of the selection procedure.

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

Staff Regulations (SR) and the Conditions of Employment of Other Servants of the European Communities (CEOS), laid down by Council Regulation (EEC, EURATOM, ECSC) No. 259/68 last amended by Council Regulation (EC, EURATOM) No. 31/2005 of December 2004, and in particular Articles 12-15 and 82-84, 86 of CEOS

##### Implementing rules of the Agency:

- Decision AB No. 10/2011 on the adoption of general implementing provisions on the procedure governing the engagement and the use of temporary agents at ACER
- Decision AB No. 11/2011 on the adoption of general implementing provisions on the procedures governing the engagement and the use of contract staff at ACER

The processing is necessary for the performance of a task carried out in the public interest and for the exercise of the Agency tasks on the basis of Decision AB No. 10/2011 and Decision AB No. 11/2011. In particular, the selection procedure and recruitment are necessary for the management of the functioning of the Agency and for the implementation of its specific activities.

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

The staff recruitment data is accessed by the HR Officer/HR Assistant and the members of the selection panel during the selection procedure and to the AHCC (Director) for the purpose of awarding the contract. Authorised staff from external bodies (Court of Auditors, Internal Audit Service of the European Commission) may also access to relevant personal data for audit control purposes.

In case of a request for an internal transfer of data justified under Article 7(1) of Regulation 45/2001, the Agency will remind all recipients of their obligation not to use the data received for other purposes than the

one for which they were transmitted.

**13/ Retention policy of (categories of) personal data**

Data related to recruited candidates: the data is stored in the personnel file throughout the employment at the Agency. The personnel files will be retained for a period of 10 years as of the termination of the employment or as of the last pension payment slip is sent.

Data related to non-recruited candidates: the data will be stored for 2 years following the Appointing Authority's approval of the outcome of the selection procedure.

Data pertaining to non-recruited candidates on the reserve list: the data is kept for the validity and the actual extension of the reserve list, and will be stored for 2 years after the expiry of the validity of the reserve list.

**13 a/ time limits for blocking and erasure of the different categories of data (on justified legitimate request from the data subject)**

Rectification is only possible for factual data during the procedure of selection.

**14/ Historical, statistical or scientific purposes**

Not applicable.

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

Not applicable.

**16/ The processing operation presents specific risk which justifies prior checking**

Staff recruitment data processing may involve the request of a certificate of morality and medical certificate as foreseen in Article 27.2.(a).

Furthermore, staff recruitment processing operations involve the evaluation of personal aspects relating to the data subjects as foreseen in Article 27.2.(b).

**17/ Comments**

PLACE AND DATE: Ljubljana, Slovenia, 22 November 2012

DATA PROTECTION OFFICER: Paul Martinet

INSTITUTION OR BODY: Agency for the Cooperation of Energy Regulators