

*(To be filled out in the EDPS' office)*  
**REGISTER NUMBER: 1172**

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**NOTIFICATION FOR PRIOR CHECKING**

**DATE OF SUBMISSION: 30/09/2013**

**CASE NUMBER: 2013-1067**

**INSTITUTION: TEN-T EA**

**LEGAL BASIS: ARTICLE 27-5 OF THE REGULATION CE N° 45/2001<sup>(1)</sup>**

**INFORMATION TO BE GIVEN<sup>2</sup>**

1/ NAME AND ADDRESS OF THE CONTROLLER

Name: Mr Marcos Roman Parra, Head of Unit, Resources Unit T1  
Address: W910 03/042, Trans-European Transport Network Executive Agency (TEN-T EA),  
Chaussée de Wavre 910, B-1049 Brussels

2/ ORGANISATIONAL PARTS OF THE INSTITUTION OR BODY ENTRUSTED WITH THE PROCESSING OF PERSONAL DATA

Resources Unit T1, Human Resources Sector

3/ NAME OF THE PROCESSING

Personnel selection and recruitment: up-date for the introduction of the e-recruitment tool

4/ PURPOSE OR PURPOSES OF THE PROCESSING

The purpose of the processing operation is to select and recruit staff members (contract and temporary agents & EU seconded officials). The latter category of staff members are not concerned by the e-recruitment tool. The information requested from the data subjects during the selection procedure is necessary to evaluate the candidatures and to ensure that only people with the highest

<sup>1</sup> OJ L 8, 12.01.2001.

<sup>2</sup> **Please attach all necessary backup documents**

standard of ability, efficiency, integrity are recruited from the largest possible geographical basis amongst all Member States.

The purpose of the processing of personal data during recruitment procedure is the proper management of the rights of TEN-T EA staff and the correct functioning of the Agency.

5/ DESCRIPTION OF THE CATEGORY OR CATEGORIES OF DATA SUBJECTS

During the selection procedure, data subjects are all applicants to a post within the Agency. During the recruitment procedure, data subjects are the persons that have passed the selection procedure and that have received a job offer with the Agency. These include (future) EU Seconded Officials, Temporary Agents and Contract Agents.

Seconded National Experts are not employed by the TEN-T EA for the moment.

Any procedure in relation to selection and recruitment of trainees and interim staff is notified separately.

6/ DESCRIPTION OF THE DATA OR CATEGORIES OF DATA (*including, if applicable, special categories of data (Article 10) and/or origin of data*).

The following data are requested from candidates during the selection phase:

- Personal information (first name(s), surname(s), address(es), telephone(s), fax(es), e-mail, nationality, date of birth and gender)
  - Work experience (for each experience: dates, occupation or position held, main activities and responsibilities, name and address of the employer, type of business or sector)
  - Education (for each completed course: dates, title of qualification awarded, principal subjects and occupation skills covered, name and type of organisation providing education and training, level in national or international classification);
- Job related skills and competences
- Languages (for each language specified, proficiency (understanding: listening and reading, speaking: spoken interaction and spoken production and writing))

Additional information (such as contact persons, references).

Data requested during the recruitment phase:

- Diplomas, certificates and complementary training
- Proof from previous employments and reference
- Contracts and amendments and job descriptions of previous employments
- Medical aptitude certificate
- Certificate of good conduct
- Military service certificate
- Payslip previous employment
- Birth certificate
- Documents proving nationality and marital status
- Registration place of residence
- When married, last payslip of the husband/spouse and if not employed a declaration on honour of non-employment
- Birth certificate of dependent children
- Divorce, legal separation or maintenance judgements

- Financial Identification of a Belgian bank account

Data related to racial or ethnic origin, political opinions, religious or philosophical beliefs, trade union membership, health, sex life may be processed for consultation purposes only when these data appear "spontaneously" in the curriculum vitae.

#### 7/ INFORMATION TO BE GIVEN TO DATA SUBJECTS

A disclaimer on processing of personal data containing a link to the Specific Privacy Statement is displayed in the e-recruitment tool when filling out the candidate file and appears in the automatic reply sent by the e-recruitment tools when submitting an application. A Specific Privacy Statement informing that data processing by TEN-T EA done according to Regulation (EC) 45/2001 is published on the website of the Agency. Information is provided also in the Manual of Procedures of the Agency.

#### 8/ PROCEDURES TO GRANT RIGHTS OF DATA SUBJECTS

Candidates may exercise their rights of access, rectification and erasure as set out in the respective Implementing Rules of the Agency for data protection, explained also in the Specific Privacy Statement. However, after the deadline for submitting an application, the right of rectification may be restricted to material errors. Considering the confidential nature of the proceedings of a selection panel 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.

As regards personal files, in accordance with the Staff Regulations, staff members have permanent access to their personal files by consulting the file in hard copy in the HR offices where they can request copies. They also have the right to rectify any inaccuracy upon request. This right remains also after the end of the contract with the Agency. The personal files can only be consulted by HR staff and by the data subject as described above.

#### 9/ AUTOMATED / MANUAL PROCESSING OPERATION

Selection and recruitment procedures are dealt with by the Human Resources Sector of the Agency, which is part of the Resources Unit. In view of the forthcoming extension of mandate of the Agency, the number of recruitment procedures is expected to increase significantly in short term. Therefore, it became necessary to automatize the process as much as possible through the introduction of an e-recruitment tool, which is to apply to Contract and Temporary Agents. In that context, the Agency signed a specific contract with Comparex Nederland BV/Talentsoft for an e-recruitment tool addressing the needs of the Agency on the basis of the framework contract DI/06820 for software products, which was concluded by the Commission (see enclosures).

Processing operations during these procedures are conducted in accordance with the requirements of the Staff Regulation and the respective Implementing Rules of the Agency in order to evaluate the candidates to a specific post and, later, to establish the rights of (future) staff members subsequent to their selection.

The recruitment procedure starts once the selection procedure was completed and involves the establishment of a personal file. This file contains a number of personal data and has the purpose to

determine and administer the rights of the Seconded Officials, Temporary Agent or Contractual Agent to be recruited.

### **1. Publishing of the vacancy notice**

The Head of Human Resources, in collaboration with the Head of the Unit in which the vacant post arises, drafts the vacancy notice. The approval process of the vacancy for a Temporary or Contract Agent is done via the e-recruitment tool. Once approved, it is published on:

- The Agency's website
- The EPSO website under "Non permanent posts"
- The Commission's MyIntraComm website (DG HR) under "Vacant posts – Miscellaneous"
- the permanent representations's website
- Eurobrussels website for temporary agent positions (non financial)
- EurActiv Website

There is no obligation to publish Contractual Agents posts (it is possible to go directly through EPSO reserve lists).

### **2. Receipt and processing of applications**

Applications must be sent within the deadline mentioned in the vacancy notice through the e-recruitment tool. The candidate shall first create an account before being able to access the functionalities enabling the posting of an application containing the following information: first and last name, position sought, date of birth, address and contact details, education including job related and computer skills, language skills, professional experience. S/he shall also reply to some compulsory questions on compliance with eligibility criteria set out, and will need to attach the following documents:

- CV in European format
- Motivation letter
- EPSO letter (for contract agents only)

Upon receipt of an application, the tool sends an automatic acknowledgment of receipt.

Once the deadline for application is passed, the vacancy is automatically deactivated by the tool so candidates can no longer apply.

### **3. Screening**

The Recruitment Cell in the HR Sector uses the tool to extract a screening table with the necessary information: candidate number, name, nationality, eligibility criteria, essential and advantageous criteria. The recruitment cell then double-checks the candidates' self-assessment of these criteria against their CV, and has the possibility to override and correct the information if it deems it necessary. It then organises the pre-selection.

### **4. Pre-selection and selection**

Selection panels are set up in line with the respective Implementing Rules. To ensure gender balance, the presence of at least one male and one female member should be ensured on each panel. External members of the panels are always invited from other EU institutions or bodies.

Each member of the panel receives an email generated by the Recruitment Cell in the e-tool giving them access to the relevant files related to the position for which they are involved and for such a position only. They can view CVs, motivation letters and candidate profiles as well as the screening grid. They then mark each individual candidate with their own appreciation in the system. The e-tool keeps a history of each individual panel member's appreciation.

Members of the panel must sign a "Declaration of absence of conflict of interest" and should follow good practices of non-discrimination during the interviews.

During the pre-selection meeting, the panel examines the various candidatures and the candidates to be interviewed are selected. Minutes of the pre-selection meeting are issued and approved by all members. The minutes are included in the tool for that position. The Recruitment Cell will then send

through the e-tool notifications to the successful and unsuccessful candidates, and will organise interviews.

All applicants invited for an interview need to answer a written question organised on the same day as the interview (generally just before). As the evaluation of the written question is to be included in the evaluation sheet, it has to be limited in time (max. half an hour) and quantity (one single page). Since 1 October 2010, the tests have been extended to 45 minutes and include a multiple choice test (20 questions) in addition to the written question. These are marked separately and added to the results of the interview to represent 40% of the final mark. A result of less than 50% in any of the component (multiple choice questions, written test & interview) will lead to the candidate's elimination. Following the tests and interviews, the final minutes of the selection committee should include reasons for all decisions taken and a shortlist of applicants suitable for the position. Once the minutes are approved by the selection panel, they are included in the file for that position. Upon confirmation from the Director of the decision of the panel, the recruitment cell will send by automatic email through the e-tool negative replies to candidates who are not selected and positive replies to the successful candidates who are being put on the reserve list or recruited.

The recruitment cell will then prepare the offer letter(s) for candidates to be recruited outside the e-tool. When necessary, a second interview may be held.

The Director establishes the reserve list for each post for a period of 12 months, which may be extended further upon his decision.

## **5. Recruitment**

Following successful selection, a medical visit is compulsory prior to a candidate's entry into service. The recruitment cell is in charge of organising appointments for newcomers with the medical services of the Commission on the basis of the Service Level Agreement with DG HR and its Appendix 2 on Medical Service (see enclosures). No medical visit is foreseen for a candidate coming from the Institutions or other Agencies if there is no interruption between the two contracts. Only when medical clearance is received, can the recruitment cell continue with the recruitment procedure.

As soon as the offer is accepted by the candidate and the contract is signed by the Director, the recruitment cell sends the necessary information (using PMO forms) to the newcomer, informs PMO on the basis of the Service Level Agreement with PMO (see enclosure) and sets up an appointment with PMO for the newcomer. In order to establish the grading of the newcomer in line with the Implementing Rules, a Grading Committee is set up and is composed of the Head of Human Resources and one member of the recruitment cell.

During the selection phase, the Human Resources sector may exchange information with candidates related to reimbursement of expenses.

As regards details and specific features of the e-recruitment tool, please consult the Technical Annex of the Specific Contract.

## **10/ STORAGE MEDIA OF DATA**

During the selection phase, the EPSO CAST ERL, an electronic database containing personal data may be consulted.

Personal data, motivation letters and CVs from applicants are received and stored via the e-recruitment tool. Data of candidates invited for an interview is stored on a common drive accessible only to HR staff.

During the recruitment phase, the personal file constituted by the HR contains all of the personal details obtained from the candidate and is administered only by the HR Sector.

The files are paper based, however, the HR sector also keeps personal files on the common drive accessible only to HR authorised staff.

Some data are also inserted in a database (Sysper2 and Mips) for the purpose of administering the career, mission and annual leave of the new staff member. Each of the three repositories is protected with access limited to HR staff only.

#### 11/ LEGAL BASIS AND LAWFULNESS OF THE PROCESSING OPERATION

##### Legal basis:

- Council Regulation (EC) No 58/2003 of 19 December 2002 laying down the statute for executive agencies to be entrusted with certain tasks in the management of Community programmes
- Decision C(2007)5282 of 5/11/2007 delegating powers to the TEN-T EA with a view to the performance of tasks linked to implementation of the community programme for grants in the field of the trans-European transport network, comprising in particular implementation of appropriations entered in the Community budget as amended by Decision C(2008)5538 of 7/10/2008
- Articles 27-34 of the Staff Regulations for detached EU officials
- Articles 12-15 of the Conditions of Employment of Other Servants of the European Communities and the Staff Regulations (for temporary agents)
- Articles 82-84 of of the Conditions of Employment of Other Servants of the European Communities and the Staff Regulations (for temporary agents)
- Steering Committee Decision SC (2009) 009 of 18 September 2009 on the Engagement and use of Temporary Agents
- Steering Committee Decision SC (2012) 020 of 17 July 2012 on the Use and engagement of Contract Agents

##### Lawfulness:

Regulation (EC) No 45/2001, Article 5(a): the processing is necessary for the legitimate exercise of official authority vested in the Community institution or body. The processing is also necessary for the performance of a task carried out in the public interest on the basis of the Treaties or other instruments adopted on the basis thereof.

In addition, the process is lawful under Article 5 (d) meaning that the data subject has unambiguously given his or her consent.

Data processed during the procedures of selection and recruitment falls under the scope of Article 27.2 (b) of Regulation (EC) 45/2001.

#### 12/ THE RECIPIENTS OR CATEGORIES OF RECIPIENT TO WHOM THE DATA MIGHT BE DISCLOSED

Any personal data during the selection phase will be disclosed to:

- The members of staff of the HR sector responsible for the selection
- The members of the selection panel
- The Director of the Agency

The data contained in the recruitment file are disclosed to

- the staff members in the HR sector
- the Director as the Agency's Appointing Authority
- Pay Master Office (PMO on the basis of a Service Level Agreement) and the Medical Service of the Commission (on the basis of a Service Level Agreement).
- Upon request, the staff member him/herself for consultation

The data may be disclosed on a need to know basis to the Head of Human Resources, Head of the Legal Team, Legal Adviser, Internal Auditor, IAS, European Court of Auditors, Legal Service, Civil Service Tribunal (other EU Courts), EDPS, OLAF.

13/ RETENTION POLICY OF (CATEGORIES OF) PERSONAL DATA

Data related to spontaneous applications are not retained as the Agency does not accept spontaneous applications.

In case of recruitment data is retained in line with the rules of the Commission's Common Retention List (CRL) for personnel files, i.e. 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.

Data pertaining to applicants who were invited for an interview during the course of a given selection and recruitment procedure is kept at least until the first HR audit and up to 5 years in line with the CRL following the conclusion of the recruitment procedure.

Data related to applicants not invited for an interview will remain in the Agency's common drive for a period of maximum of 5 years in line with the CRL. Data will be automatically removed at the end of this period.

Data in the e-recruitment tool are stored for 5 years in line with the Common Retention List of the Commission, at the end of this period data is automatically destroyed. Data subjects are notified one month before the end of this period about the removal. They can nevertheless delete their data via the e-recruitment tool at any moment.

13 A/ TIME LIMIT TO BLOCK/ERASE ON JUSTIFIED LEGITIMATE REQUEST FROM THE DATA SUBJECTS

15 working days for all data.

14/ HISTORICAL, STATISTICAL OR SCIENTIFIC PURPOSES

Upon request, the Agency might transfer some anonymous data for statistical purpose to the PMO, Eurostat, Permanent Representation of Member States and the Cabinet of DG MOVE.

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.(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

The up-date of the prior checking notification concerns only selection and recruitment of contract agents and temporary agents.

PLACE AND DATE: BRUSSELS, 12/09/2013

DATA PROTECTION OFFICER: ZSOFIA SZILVASSY /ACTING DATA PROTECTION OFFICER:  
CAROLINE MAION

INSTITUTION OR BODY: TRANS-EUROPEAN TRANSPORT NETWORK EXECUTIVE AGENCY