

(To be filled out in the EDPS' office)

REGISTER NUMBER: 1275

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NOTIFICATION FOR PRIOR CHECKING

DATE OF SUBMISSION: 03/11/2014

CASE NUMBER: 2014-1011

INSTITUTION: EUROFOUND

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

INFORMATION TO BE GIVEN²

1/ NAME AND ADDRESS OF THE CONTROLLER

Eurofound through the Appointing authority (European Commission) and the Appraisal Committee which administers the procedure: Vice chairman of Eurofound Governing Board (who is from the European Commission) and EC representative at Eurofound Governing Board.

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

The following actors are related or take part in the appraisal exercise, for both of the following data subjects the Director and deputy Director:

- a-Eurofound Governing Board (i.e.: management body), via its chairperson: Instructs the reporting officers to conduct the appraisal exercise. Eurofound Governing Board nominates at least two reporting officers to conduct the appraisal exercise. One reporting officer represents the European Commission.
- c-The appeal assessor who is the chairperson of the Governing Board, in case of an appeal against the appraisal report.
- d-Eurofound Director: consulted by the reporting officers for the appraisal exercise related to the Deputy Director. Informed if an appeal is made against the appraisal report related to the deputy Director.
- e-HR Unit which receives the final appraisal decision and the report.

3/ NAME OF THE PROCESSING

Appraisal exercise of the Director and Deputy Director of Eurofound.

¹ OJ L 8, 12.01.2001.

² Please attach all necessary backup documents

The objective of the annual appraisal is to assess the efficiency, the competencies and the conduct in the service of the job holder. The procedure for the Director (A) and Deputy Director (B) is detailed as follows in the Implementing Rule (*Annex 1*):

A] Director (*extracts*)

1. The annual appraisal takes place during the first semester of the year following the reference period.
2. The job holder establishes, within five working days after the reporting officers' request, a self-assessment which is incorporated into the report. If the job holder does not finalise his/her self-assessment within the required time, the reporting officers can decide to hold the dialogue referred to in paragraph 4 when the deadline of five working days has expired.
3. At the latest five working days after the self-assessment is communicated by the job holder, the reporting officers and the Director discuss the self-assessment provided by the job holder.
4. At the latest 10 working days after the self-assessment is communicated by the job holder, the reporting officers and jobholder will hold a formal dialogue. The reporting officers may invite the Director to be present as an observer during the dialogue. The dialogue covers the following elements:
 - a) evaluating jobholder's competencies and conduct in the service during the reference period;
 - b) establishing jobholder's objectives for the following reference period and- if necessary- a training plan which takes into account the objectives in relation to the agency annual work programme and the personal development goals.
5. At the latest, ten working days after the appraisal dialogue, the reporting officers draw up a draft appraisal report. The report comprises a general appraisal which takes into account the appraisals given on efficiency, competencies and conduct in the service of the job holder, in accordance with the criteria set out in the report. The results of this appraisal meeting will be set out in the appropriate part of the appraisal report form.
6. The Director shall be consulted by the reporting officers on the report, in in regard the efficiency, the competencies and the conduct of the jobholder. In case of disagreement between the Director and the reporting officers, the conflicting opinion shall be recorded in the report. In case of an appeal, the situation shall be brought into the knowledge of the Appeal Assessor.
7. Where they consider it to be appropriate, the reporting officers shall have the right to consult with other parties, including staff and stakeholders, in order to establish information regarding the efficiency, competencies and conduct in the service of the job holder.
8. The report is notified in writing to the jobholder.
9. The jobholder has five working days to accept the report without making any comments, accept it after adding comments in the appropriate section of the report or refuse the report by justifying the revision request in the appropriate section. If the report is accepted by the jobholder, the appraisal report is closed. A report is deemed to be accepted in case of absence of reaction of the jobholder within the time foreseen.
10. The closed report is transmitted to the Chair of the Governing Board for information.
11. The deadlines referred to in this decision start when the decision is likely to have been communicated to the person concerned or, at least, when the latter acting as a diligent temporary agent may be expected to be aware of the content of this decision and the underlying reasons.

B] Deputy Director (*extracts*)

1. The annual appraisal takes place during the first semester of the year following the reference period.
2. The job holder establishes, within five working days after the Director's request, a self-assessment which is incorporated into the report.
3. At the latest ten working days after the self-assessment is communicated to the job holder; the Director and the job holder will hold a formal dialogue, to examine the competencies shown and the conduct in the service of the job holder, for the reference period, and to discuss and set objectives and if necessary agree a training plan for the job holder. The result of the appraisal meeting will be set out in the appropriate part of the appraisal report form.
4. At the latest ten working days after the appraisal dialogue between the Director and jobholder, the Director presents a draft appraisal report to the job holder and to the reporting officers. This report comprises a general

appraisal which takes into account the appraisal given on efficiency, competencies and conduct in the service of the job holder, in accordance with the criteria set out in the report.

5. If the job holder refuses to finalise his self-assessment within the required time, the Director can decide to hold the dialogue when the deadline referred to in 2 has expired, and when the appraisal meeting has not been completed, the Director shall submit to the reporting officers his appraisal report with objectives.

6. If the job holder and the Director cannot agree on a final appraisal report within ten working days, the draft appraisal report is sent to the reporting officers for review within ten working days. As part of their review, the reporting officers have the possibility to convene a formal dialogue with the job holder and the Director with a view to reaching an agreement on the appraisal of the job holder.

7. The dialogues cover the following elements:

a) the Director and where necessary the reporting officers examine the job holder's efficiency based on the fulfillment of objectives and the implementation of the tasks, the competencies shown and the conduct of the service of the job holder, for the reference period.

b) the Director, in dialogue with the job holder, will also set the objectives for the following reference period, and, if necessary, a training plan which takes into account the objectives in relation to the Agency annual work programme and the personal development goals.

8. At the latest ten working days after the formal dialogue, the reporting officers draw up their proposal for a final report.

9. The proposal for a final report is notified to the Director and the job holder.

10. The jobholder has five working days to accept the report without making any comments, accept it after adding comments in the appropriate section of the report or refuse the report by justifying the appeal request in the appropriate section. If the report is accepted by the jobholder, the appraisal report is closed. A report is deemed to be accepted in case of absence of reaction of the jobholder within the five working days, unless some extension of time is agreed.

11. The closed report is transmitted to the Chair of the Governing Board for information.

12. The deadlines referred to in this decision start when the decision is likely to have been communicated to the person concerned or, at least, when the latter acting as a diligent temporary agent may be expected to be aware of the content of this decision and the underlying reasons.

For both data subjects, and in the case where a reclassification is sought for the data subject, the Governing Board is usually requested to issue an opinion on that request. In order to come to an informed opinion, the relevant appraisal report will be disclosed to the Governing Board members.

5/ DESCRIPTION OF THE CATEGORY OR CATEGORIES OF DATA SUBJECTS

The appraisal exercise described in this notification concerns only two data subjects, namely, the Director and Deputy Director of Eurofound. No other Eurofound staff member is concerned by this processing.

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 categories of data are processed during the appraisal exercise (see Career development Report form attached to the Implementing Rule):

a-Data subject identity details: name, first name, category of position + grade and staff number;

b-Data subject functions and duties details: overall purpose of the subject, planned objectives and self-assessment;

c-Appraisal details:

i-Criteria and associated comments by the reporting officers,

ii-Competencies (task management, people management, information and communication),

iii-Aspect of conduct of the data subject, overall summary (comments from the reporting officer

might be possible).

d-Comments from the data subject.

7/ INFORMATION TO BE GIVEN TO DATA SUBJECTS

- a-Both Eurofound internal Decisions along with the Implementing Rule (*Annex 1*) mentioned in item 11 of this notification are accessible on Sharepoint (Intranet) and on the Document management software HP Trim;
- b-A Privacy statement is attached to this notification (*Annex 2*);
- c-This notification along with its annexes, such as the Privacy statement, are published on the Data Protection Officer Intranet page, DPO Register.
- d-In addition, it is noted that a Procedure note (*Annex 3*) is handed over to the reporting officers, along with the annexes mentioned above in order to constitute an information package.

8/ PROCEDURES TO GRANT RIGHTS OF DATA SUBJECTS

(Rights of access, to rectify, to block, to erase, to object)

As indicated in the Privacy Statement, the data subjects have the following rights:

- Right to access their personal data and request blocking or erasure at any time.
- In relation to the appraisal and promotion procedures, they have the right to rectification of (subjective) evaluative data only during the appraisal or appeal procedure.
- In cases where subjective evaluative data are contested, the appraisal procedure provides the data subjects to enter their comments.
- Right to have recourse to the EDPS under Article 20(3) of Reg.45/2001.
- Contact details of both EDPS and Eurofound DPO are provided in the Privacy Statement.

9/ AUTOMATED / MANUAL PROCESSING OPERATION

The format of the data processing is essentially manual. It is noted that only the reporting officers and the chairperson of the Governing Board receive the detailed report. The other members of the Governing Board receive a summarised version of the appraisal decision for information purposes. This summarised version is presented by the chairperson of the Governing Board.

In the case of an appeal, it is implicit in the Implementing Rule regulating the appraisal that the Governing Board receives the report in full in order to reach an informed opinion. It should be noted finally that a possible reclassification may usually be connected to the renewal of the contract. In this context, the summarised Governing Board should give an opinion for which the reception of the report is necessary.

10/ STORAGE MEDIA OF DATA

i-Personal data are mainly processed within an assessment form. This form may be transmitted electronically between each involved party and authorised party throughout the appraisal procedure. The only paper format document is the final decision on the appraisal of the data subject which is stored by HR.

ii-The document is then digitized and placed into the electronic personal file (HP TRIM) of the data subject by a HR officer. The personal file is electronically protected by password and the document management system HP TRIM folder is not reachable from other staff members other than HR officers.

11/ LEGAL BASIS AND LAWFULNESS OF THE PROCESSING OPERATION

The legal basis of this processing is the following (by norms' hierarchy):

- Council Regulation (EEC) N°1365/75 creating the European Foundation;
- Articles 34, 43, 44, 46 and 110 of the Staff Regulations;

-Articles 14 and 15(2) of the CEOS;
-Commission decision SEC(2005) 625 of 13 May 2005 concerning the guidelines relating to the appointment of the heads of the Community agencies;
-Decision of the Governing Board concerning the appraisal for the Director of Eurofound, dated 23 October 2009; (*Attachment III of Annex I*)
-Decision of the Governing Board concerning the appraisal for the deputy Director of Eurofound, dated 5 March 2010; (*Attachment I of Annex I*)
-Implementing Rule on the appraisal of members of the Directorate adopted in March 2010.

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

i-European Commission as taking part in the appraisal exercise,
ii-European Court of Justice (i.e.: Tribunal de la Fonction publique) in case of an appeal,
iii-European Ombudsman in case of a complaint lodged before her services,
iv-Eurofound Governing Board,
v-Appointed reporting officers to conduct the assessment,
vi-Eurofound HR Unit, as manager of the Personnel file,
vii-OLAF, IAS and Court of Auditors.
viii-Appeal assessor when appropriate

13/ RETENTION POLICY OF (CATEGORIES OF) PERSONAL DATA

i-Appraisal reports are filed in the personnel file of the data subject until the end of the data subject mandate³. They are removed and then destroyed after the end of the retention period.
ii-Working documents created during the exercise are stored only during the Appraisal procedure by the reporting officers. They are destroyed once the procedure, including the period for possible appeals, is closed.

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

i-Upon reception of the request by the data controller in written, access blocking or erasure of personal data is dealt with within 15 working days.
ii-As regard subjective evaluative data, the data controller should reply to the data subject within a reasonable time in order to avoid the disruption or any delays of the appraisal procedure.

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.

Since the exercise only concerns two data subjects, statistics are not kept, therefore no personal data are kept for a longer period than the period mentioned in item 13 of this notification.

15/ PROPOSED TRANSFERS OF DATA TO THIRD COUNTRIES OR INTERNATIONAL ORGANISATIONS

N/A

³ Mandate is 5 years, renewable once.

16/ THE PROCESSING OPERATION PRESENTS SPECIFIC RISK WHICH JUSTIFIES PRIOR CHECKING (*Please describe*):

Article 27.2.(b) is believed to be the primary justification for this prior check. Indeed the reporting officers assess on personal aspects of the director and deputy director such as the overall outcome and achievements of the data subjects for the purpose of their appraisal.

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

N/A

PLACE AND DATE: DUBLIN, 30/10/2014

DATA PROTECTION OFFICER: MARKUS GRIMMEISEN

INSTITUTION OR BODY: EUROFOUND