

(To be filled out in the EDPS' office)
REGISTER NUMBER: 1337

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NOTIFICATION FOR PRIOR CHECKING

DATE OF SUBMISSION: 20/10/2015

CASE NUMBER: 2015-0915

INSTITUTION: EULISA

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

INFORMATION TO BE GIVEN²

1/ NAME AND ADDRESS OF THE CONTROLLER

Daiva Vilkelyte, Head of Human Resources Training Unit

daiva.vilkelyte@eulisa.europa.eu

EU-LISA,
EUROPEAN AGENCY FOR THE OPERATIONAL MANAGEMENT OF LARGE-SCALE IT SYSTEMS IN THE AREA
OF FREEDOM, SECURITY AND JUSTICE
EU HOUSE
RÄVALA PST 4
10143 TALLINN, ESTONIA

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

Same Unit as Controller

¹ OJ L 8, 12.01.2001.

² **Please attach all necessary backup documents**

3/ NAME OF THE PROCESSING

Staff performance appraisal

4/ PURPOSE OR PURPOSES OF THE PROCESSING

The purpose of the processing operation, the appraisal exercise, is to evaluate the performance and provide annually appraisal of eu-LISA staff.

5/ DESCRIPTION OF THE CATEGORY OR CATEGORIES OF DATA SUBJECTS

Statutory Staff Members of eu-LISA (Jobholders)

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 collected from the Jobholders are enclosed both in the Annex I "Self-Evaluation Report" and in the Annex II "Annual Evaluation Report".

The categories of data used in this processing operation are the following:

Administrative Data: Name and Surname, Contract Type, Function Group and Grade, Department/Unit, Job title and the start date of the contract.

Evaluation data: ability, efficiency, conduct.

7/ INFORMATION TO BE GIVEN TO DATA SUBJECTS

The Annual Evaluation Report and the Self-Evaluation Report include the following privacy notice:

The Regulation 45/2001 (hereinafter 'the Regulation') applies to the processing operation of the personal data for the eu-LISA staff appraisal exercise, According to the Articles 11 and 12 of the Regulation, eu-LISA will provide the data subjects with the following information:

The controller is the Head of Human Resources and Training Unit in eu-LISA.

Data are strictly processed within the HRTU Unit by the HR staff.

The purpose of the processing is the assessment of the work performance.

Data subjects can exercise their rights of access and rectification of the data at any time before the closure of the appraisal process by contacting the Head of HRTU.

The legal basis of the processing operation is the Staff regulation of Officials and Conditions of employment of other servants of European Communities; in particular Article 43 which provides that each EU official shall be subject to a periodical report, the Condition of employment of other servants of European Communities, in particular Article 15(2) of CEOS which applies the provision of Article 43 to temporary staff by analogy, the Implementing Rules of 16 December 2013 C (2013) 8685 on Staff Appraisal and C (2013) 8968 adopted by analogy by eu-LISA Management Board Decision on 15 May 2014.

The categories of data which are used in the context of this processing operation are the following:

- Administrative Data: Name and Surname, Contract type, Function Group and Grade, Department/Unit, Job Title and the start date of the contract*
- Evaluation Data: ability, efficiency, conduct*

The recipients of personal data related to the Annual Evaluation Report and the Self Evaluation Report:

- As long as the file is active (i.e. throughout the different stages of the Appraisal) namely: the Jobholder, the Reporting Officer, the Appeal Assessor, the controller of the data processing operation*
- Once the appraisal procedure is completed: Institutions or bodies falling within the exemption provided by article 20 of Regulation 45/2001 because acting for safeguard purposes (such as the Internal Audit Service, the EU Court of Auditors, the Eu Ombudsman, OLAF, the EU Court of Justice, European Data Protection Supervisor).*

Data subjects may at any time refer to the DPO with regard to the processing of their personal information in the context, dpo@eulisa.europa.eu, or the European Data Protection Supervisor edps@edps.europa.eu.

The Annual Evaluation Report and the Self-Evaluation Report containing personal data are kept (in paper form in the jobholder personal file and in electronic form in the reporting officer computer) for 5 years after the termination of the employment of the Jobholder.

8/ PROCEDURES TO GRANT RIGHTS OF DATA SUBJECTS

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

Upon request, the jobholder may always have access to his/her personal file and receive a copy of the different reports. Once finalised and signed, the final reports cannot be modified. The Jobholder is provided with a copy of his/her appraisal report and is invited to make comments and to write his/her self-assessment. S/he can therefore amend all administrative data at that time. The data subject can also rectify his/her data by submitting a written request to the controller. Rectification is possible only for factual data, not for evaluation data that are subjective.

The time established to comply with the requests is:

- Access within 3 months
- To rectify according to the previous statement, within 5 days;
- For blocking/ erasure/objection, in a case-by-case analysis but within one month.

9/ AUTOMATED / MANUAL PROCESSING OPERATION

The appraisal process is carried out in the following way (the appraisal process is enclosed in the Annex III of this note):

The Reporting officer ask the jobholder (JH) to write a self-assessment (max. 8 working days)
Dialogue (insertion of the date in the report)
After receiving the SA, the Reporting officer holds a dialogue with the JH
The Reporting Officer draws up the qualitative report.

In the 10 working days following the dialogue, the Reporting Officer drafts an individual qualitative appraisal of the jobholder's efficiency, ability and conduct in the service.
The Jobholder accepts or refuses the report.
He has 5 working days to confirm or refuse the report

If the report is accepted it shall become final. A Jobholder who does not react within the time limits referred in the previous paragraph shall be considered to have accepted the report. If the report is not accepted it shall become an Appeal.

The Appeal Assessor is the hierarchical supervisor of the reporting officer and decides on the appeals of the jobholder.

The Appeal Assessor invited the Jobholder to a second dialogue

Second dialogue (insertion of the data in the report)

If the Appeal Assessor confirms the report (with or without comments) the reports shall become final.

If the Jobholder is not satisfied with the outcome of the appeal can still lodge an appeal under Article 90(2), with the possibility of pursuing the case in the Civil Service Tribunal.

If the Appeal Assessor asks the Reporting Officer to modify the report, the report is returned to the Assessor through a technical intervention of the Human Resources department.

10/ STORAGE MEDIA OF DATA

Paper versions stored in designated fire proof code protected safes and copies of the forms are scanned onto a specially designated folder where all HR staff has access. In Strasbourg during processing of the information the documents are stored in a filing cupboard with a lock. First the documents are sent by scan and afterwards the originals are sent via DHL. Paper files are to be stored in safe in a secure architecture room.

11/ LEGAL BASIS AND LAWFULNESS OF THE PROCESSING OPERATION

LEGAL BASIS

The appraisal procedures are based on **Article 43** of the Staff Regulations and/or **Articles 15(2)** of the Conditions of Employment of the Other Servants (CEOS) as implemented in the eu-LISA Management Board Decision 16 December 2013 C (2013) 8985 adopting by analogy **EC Decision C(2013) 8967 of 05 May 2014**.

LAWFULNESS OF THE PROCESSING OPERATION

Processing operation is necessary for the performance of eu-LISA tasks on the basis of the eu-LISA founding instrument or other legal instrument adopted on the basis thereof or in the legitimate exercise of official authority vested in eu-LISA or in a third party to whom data are disclosed (Regulation (EC) 45/2001, Article 5(a))

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

Data will only be disclosed to:

- the Jobholder
- the Reporting Officer
- the Appeal Assessor
- the Controller of the data processing operation (HRT Unit)
- Institutions or bodies falling within the exemption provided by article 20 of Regulation 45/2001 because acting for safeguard purposes (such as the Internal Audit Service, the EU Court of Auditors, the Eu Ombudsam, OLAF, the EU Court of Justice, the European Data Protection Supervisor)

13/ RETENTION POLICY OF (CATEGORIES OF) PERSONAL DATA

The final appraisal period report is placed in paper form in the personal file of the jobholder and in electronic form in the reporting officer and jobholder computer. It will remain there for a period of 5 years after the termination of employment.

In case of potential litigation the retention period is kept frozen for non performance in three consecutive years.

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

For blocking/ erasure/objection, in a case-by-case analysis but within one month.

When the data subject contests the accuracy of his/her data, the data is blocked for a period enabling the controller to verify the accuracy, including completeness of the data. Then an assessment is made within a period of one month.

When a request for blocking or objection is made on the grounds of unlawful processing or for the purpose of proof, the controller will need some time to make the assessment before issuing a decision to block or on an objection for processing the data. The assessment is made in a period of one month.

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*):

AS FORESEEN IN:

1

1x **Article 27.2.(b)**

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

† Other (general concept in Article 27.1)

Appraisal procedures are processing operations subject to prior checking on a basis of Article 27(2) (b) of Regulation 45/2001 since they are intended to evaluate personal aspects relating to the data subject; namely, the ability, efficiency and conduct of the respective staff members during their service at the Agency.

17/ COMMENTS

The processing operation entrusted to eu-LISA started on the 2st April 2014, this is an ex-post prior checking.

The processing operation was aligned in order to take into account the EDPS guidelines on staff evaluation.

The following **annexes** are included to this notification:

- Annex I - Self-Evaluation Report;
- Annex II – Annual Evaluation Report;
- Annex III - Appraisal Process;
- Annex IV- Implementing Rules of 16 December 2013 C (2013) 8685 on Staff Appraisal and C (2013) 8968 adopted by analogy by eu-LISA Management Board Decision on 15 May 2014;
- Annex V - Notification of Personal Data Processing Operation to DPO;
- Annex VI - Opinion Note by eu-LISA DPO.

18/ MEASURES TO ENSURE SECURITY OF PROCESSING³ :

PLACE AND DATE: 28/09/2015

DATA PROTECTION OFFICER: FERNANDO SILVA

³ Not to be published in the EDPS' Register (Art. 27(5) of Regulation (EC) N°: 45/2001)

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EDPS OPINION

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FOLLOW UP *(in case of acting measures to be taken)*