

(To be filled out in the EDPS' office)
REGISTER NUMBER: 1338

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NOTIFICATION FOR PRIOR CHECKING

DATE OF SUBMISSION: 20/10/2015

CASE NUMBER: 2015-0916

INSTITUTION: EU-LISA

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 reclassification exercise

4/ PURPOSE OR PURPOSES OF THE PROCESSING

The purpose of the processing operation, i.e. the reclassification exercise of eu-LISA staff is the assignment to employment corresponding to a grade superior to that at which they were initially employed.

5/ DESCRIPTION OF THE CATEGORY OR CATEGORIES OF DATA SUBJECTS

eu-LISA staff (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 are already being collected from the Jobholders during the Appraisal process.
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: Performance level determined in the appraisal report and use of a third EU language

7/ INFORMATION TO BE GIVEN TO DATA SUBJECTS

An email will be sent by the HR announcing to the data subjects about the launch of the reclassification process. The email will include a data protection clause whereby the data subject is informed that his/her personal data will be processed in accordance with Regulation 45/2001 and the following privacy statement will be attached to the email:

The Regulation 45/2001 (hereinafter 'the Regulation') applies to the processing operation of the personal data for the eu-LISA staff reclassification 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 by the Staff Development Officer and by assigned HRTU staff.

The purpose of the processing is the assessment of comparative merits of the eu-LISA staff eligible for reclassification based in particular on the result of their appraisal, the level of their responsibilities and the use of languages in the performance of their duties. This is with the view to appointment/assignment to the first step of the next higher grade in the function group to which a temporary or contract agent belongs.

Data subjects can exercise their rights of access and rectification of the data at any time before the completion of the 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 Articles 45 SR and Article 85(3) CEOS , the Implementing Rules of 16 December 2013 C (2013) 8968 adopted by analogy by eu-LISA Management Board Decision on 15 May 2014, the eu-LISA reclassification process of 19 January 2015.

The categories of data processed include:

- *Administrative data: full name, gender, staff number, category and grade, seniority in grade*
- *Evaluation data: overall assessment comment in the last appraisal exercise, the knowledge of a third European language.*

The recipients of personal data:

- *The staff member concerned, the Head of Unit, the members of the Management Committee, the members of the Reclassification Joint Committee, the Executive Director in his capacity of appointing/contracting authority.*
- *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

Data subjects have at any time the right of recourse to the EDPS with regard to the processing of their personal information in the context edps@edps.europa.eu

The promotion decisions containing personal data are kept in personal files for 5 years after the termination of the employment.

8/ PROCEDURES TO GRANT RIGHTS OF DATA SUBJECTS

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

Data subjects may exercise their right of access to his/her data being process by contacting the Controller HRTU and they are provided with information on the status of their reclassification process as well as with decision on reclassification. Data subjects have also the right to rectify any administrative data that are inaccurate or incomplete, through a request to Data Controller. As regards to evaluation data, such data can be rectified in an appeal procedure before the Joint Promotion Committee.

Data subjects have also the right to obtain from Data Controller blocking or erasure of their data.

9/ AUTOMATED / MANUAL PROCESSING OPERATION

Reclassification process is carried out in the following way (the reclassification process is enclosed in the Annex I of this note):

Performance Appraisal is the basis for the reclassification according to pre-defined criteria of a number of statutory staff members within the budgetary constraints. Among those criteria, there is the 3rd EU language assessment.

HRTU produces a list of eligible staff for promotion (= 2 years in the grade + 3rd EU language + at least 1 appraisal report completed) by Unit, or Reporting Officer

The list is sent to the Reporting Officers for their consideration

The Management Committee hold a meeting to compare merits and agrees on a shortlist for promotion

The list is sent to the Joint Promotion Committee, published on the shared drive and staff is informed by email.

At this stage staff eligible but not on the shortlist can lodge an appeal to the Executive director

The Joint Promotion Committee makes comparison of merits at Agency level, examines promotion proposals of Units and appeals, makes recommendation on appeals and proposes to ED its final draft list including the results of verification of appeals.

The list is submitted to the Executive Director, who takes the final decision and informs HRTU about the outcome on appeals.

The list of staff to be promoted will be published on the shared drive and staff will be informed by email.

Promotion exercise is concluded.

10/ STORAGE MEDIA OF DATA

Paper versions stored in Personal File of each Staff members located in designated fire proof code protected safes and copies of the forms are scanned onto a specially designated folder where specific 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 scanned and sent by e-mail and, afterwards the originals are sent via DHL to HRT Unit.

11/ LEGAL BASIS AND LAWFULNESS OF THE PROCESSING OPERATION

Legal Basis:

- Article 45 of the Staff Regulation
- Article 85(3) of the Condition of Employment of Other Servants
- Implementing Rules of 16 December 2013 C (2013) 8968 on Promotion/Reclassification adopted by analogy by eu-LISA Management Board Decision on 15 May 2014;
- eu-LISA Executive Director Decision n. 88/2014 launching reclassification process.

Lawfulness of the processing operation:

Processing operation is necessary for the performance of eu-LISA tasks on the basis of the eu-LISA funding 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 be only disclosed to:

- The Staff member concerned;
- HRTU;

- Management Committee members;
- Joint Promotion Committee;
- Staff Committee members;
- Appointing Authority;
- 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, the European Data Protection Supervisor).

13/ RETENTION POLICY OF (CATEGORIES OF) PERSONAL DATA

Reclassification decisions are being kept in the personal files and up to 5 years after the termination of the employment - to be able to have proof in case of potential litigation over dismissal for non performance in three consecutive years

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

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.

(Please, specify the time limits for every category, if applicable)

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:

↑ Article 27.2.(a)

Processing of data relating to health and to suspected offences, offences, criminal convictions or security measures,

x 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)

Reclassification 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, performance level determined in the appraisal report, use of languages and level of responsibilities as determined in the appraisal report.

17/ COMMENTS

The processing operation entrusted to eu-LISA started on the 15st of November 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 – eu-LISA promotion process and Appraisal process;
- Annex II – Notification of personal data processing operation to the DPO;
- Annex III – Opinion Note by the eu-LISA DPO.
- Annex IV – Decision ED 88-2014 – Launching reclassification

PLACE AND DATE: 28/09/2015

DATA PROTECTION OFFICER: FERNANDO SILVA

INSTITUTION OR BODY: EU-LISA, LARGE INFORMATION SYSTEM AGENCY

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EDPS OPINION

OF DATE:

CASE NUMBER:

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