

To be filled out in the EDPS' office

**REGISTER NUMBER: 1367**

**NOTIFICATION FOR PRIOR CHECKING**

Date of 09/03/2016

Case number: 2016-0263

Institution: GSA

Legal basis: Article 27-5 of the regulation CE 45/2001

**INFORMATION TO BE GIVEN(2)**

*(2) Please attach all necessary backup documents*

**1/ Name and adress of the controller**

European GNSS Agency, Janovskeho 438/2, 170 00 Prague, Czech Republic

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

Human Resources Department

**3/ Name of the processing**

Selection of confidential counsellors and the informal procedures for cases of harassment in GSA.

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

Selection of confidential counsellors: Personal data are processed to organise the selection of confidential counsellors for a 2-year voluntary appointment;

Informal anti-harassment procedure: Personal data are processed by GSA to prevent psychological or sexual harassment.

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

Selection of confidential counsellors:

Staff members (volunteers) following a call for confidential counsellors published by GSA.

Informal anti-harassment procedure:

- Each and every person working at GSA, regardless the grade or contract of employment, who is identified or defined as an alleged victim of harassment by a member of the GSA staff. This includes, for example, the trainees and all those working as interims or consultants.
- Any person aware of a situation of harassment in so far as he/she is involved in the procedure.
- The alleged harasser is also considered as a data subject in so far as he/she is involved in the informal procedure.

**6/ Description of the data or categories of data(including, if applicable, special categories of data (article 10) and/or origin of data)**

Selection of confidential counsellors:

- Information provided by the staff member on a voluntary basis in his/her application and letter of motivation in view of the eligibility and selection criteria detailed in the GSA call for confidential counsellors. It is possible that applicants to confidential counsellors submit data considered as sensitive according to Article 10 of Regulation (EC) 45/2001. This is nevertheless permitted under Article 10(2)(a) since the data subject gives his/her consent to the processing of such data.
- Data resulting from the call for confidential counsellors and the selection process, comprising the evaluation against pre-defined eligibility criteria, selection criteria and incompatibility criteria.
- Information on the results of the compulsory training of the candidates for confidential counsellors before confirmation of their appointment.

Informal anti-harassment procedure:

- Objective ("hard") data, i.e. administrative and identification data. Collected by means of the opening and closing forms of the procedure, complemented by any documents relevant and necessary to properly administer the case.
- Subjective ("soft") data, i.e. allegation and declaration based upon the subjective perceptions of data subjects. Collected particularly by means of personal notes of the confidential counsellors, based on statements and reflecting facts and perceptions of the alleged victim, of any person aware of a situation of harassment and of the alleged harasser (provided the victim gave his/her prior consent to contact the harasser).

During the informal anti-harassment procedure data concerning health or sex life of the data subject might be processed during the collection of information by the confidential counsellor. The processing of these data considered as sensitive under Article 10 of Regulation (EC) 45/2001 can be regarded as necessary for complying the controller with his/her obligation, inasmuch as those data are relevant for the case.

Therefore, the processing of this data falls under the scope of Article 10(2)(b) of Regulation (EC) 45/2001 according to which the processing of sensitive data can be justified if is "necessary for the purposes of complying with the specific rights and obligations of the controller in the field of employment law insofar as it is authorised by the Treaties or other legal instruments adopted thereof".

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

Selection of confidential counsellors:

Calls for confidential counsellors include a note on the processing of personal data in the context of the selection of confidential counsellors that contains the following information: identity of the controller, purpose of the processing, data concerned, legal basis, recipients of the data processed, lawfulness of the processing, information on the retention period of personal data, rights of the data subject and the right to appeal. A privacy statement is also available on the GSA Intranet.

Informal anti-harassment procedure:

A privacy statement is available on the GSA Intranet webpage with the following information: identity of the controller, purpose of the processing, data concerned, legal basis, recipients of the data processed, lawfulness of the processing, information on the retention period of personal data, rights of the data subject and the right to appeal.

**8/ Procedures to grant rights of data subjects (*rights of access, to rectify, to block, to erase, to object*)**

Data subjects can exercise their rights of access and rectification of personal data at any time. Requests of access will be dealt with within 15 working days upon receipt of the request. Requests of rectification of objective ("hard") data will be dealt with immediately and data will be rectified without delay upon the receipt of the request.

Requests shall be addressed in writing to the Head of the Human Resources Department at the following address HR-Info@gsa.europa.eu.

**9/ Automated / Manual processing operation**

Automated and manual

**10/ Storage media of data**

Selection of confidential counsellors:

Data are stored in files in the Human Resources Department archive.

Informal anti-harassment procedure:

- Objective ("hard") data are stored in a central safe where all files are stored under the supervision of the confidential counsellors.
- Subjective ("soft") data are stored in locked cupboards of the confidential counsellors.

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

- Article 12 of the Staff Regulations
- Article 11 of the Conditions of Employment of Other Servants of the European Communities (CEOS)
- Articles 1 and 31(1) of the EU Charter of Fundamental Rights

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

Selection of confidential counsellors:

- Staff of the Human Resources Department (and their hierarchy)
- Members of the selection panel

<p><u>Informal anti-harassment procedure:</u></p> <ul style="list-style-type: none"> <li>- Head of Human Resources Department (and his/her hierarchy) and staff members at the Human Resources Department who are providing administrative support in the informal procedure, solely with regard to the objective ("hard") data. Exceptionally, if the alleged victim wished the case to be handled by a staff member of the Human Resources Department rather than by a confidential counsellor, staff of the Human Resources Department can also be recipient of subjective ("soft") data.</li> <li>- Confidential counsellors</li> <li>- GSA medical adviser</li> </ul>
<p><b>13/ Retention policy of (categories of) personal data</b></p>
<p><u>Selection of confidential counsellors:</u></p> <p>Information on unsuccessful applicants is kept for 2 months after closure of all stages in the selection procedure. Information on selected confidential counsellors is kept until 2 months after termination of their mandate.</p> <p><u>Informal anti-harassment procedure:</u></p> <ul style="list-style-type: none"> <li>- Confidential counsellors shall not keep personal data for more than three months from the closing date of the procedure. Personal data will be either destroyed or returned to the data subject.</li> <li>- The Human Resources Department holds the historical memory of informal anti-harassment procedures by means of a central file of opening and closing forms on each case for maximum five years from the opening of the informal procedure. Five years is the period considered necessary for the Human Resources Department to evaluate the harassment prevention policy, to reply to any legal questions and to identify multiple or recurrent cases. Files may be retained for a further five years period in case an administrative or legal action is pending (e.g. with the European Ombudsman or the Court of the European Union).</li> </ul>
<p><b>13 a/ Time limits for blocking and erasure of the different categories of data (on justified legitimate request from the data subject) (Please, specify the time limits for every category, if applicable)</b></p>
<p>Blocking: two weeks after the receipt of the request Erasure: two weeks after the receipt of the request</p>
<p><b>14/ Historical, statistical or scientific purposes</b> <i>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,</i></p>
<p>An anonymous statistical record on informal anti-harassment proceedings is kept with the Human Resources Department.</p>
<p><b>15/ Proposed transfers of data to third countries or international organisations</b></p>
<p>N/a</p>
<p><b>16/ The processing operation presents specific risk which justifies prior checking (please describe):</b></p>

Selection of confidential counsellors:

Evaluation of the applicant's ability to perform the function and possible processing operation relating to health.

Informal anti-harassment procedure:

Evaluation of the data subject's conduct and possible processings operations relating to the health of the data subject.

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 processing is in compliance with the guidelines issued by the EDPS concerning the processing of personal data during the selection of confidential counsellors and the informal procedures for cases of harassment in European institutions and bodies.

PLACE AND DATE: 18 December 2015, Prague

DATA PROTECTION OFFICER: Triinu Volmer

INSTITUTION OR BODY: European GNSS Agency