

(To be filled out in the EDPS' office)
REGISTER NUMBER: 929

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NOTIFICATION FOR PRIOR CHECKING

DATE OF SUBMISSION: 16/11/2012

CASE NUMBER: 2012-0997

INSTITUTION: EUROPEAN RESEARCH COUNCIL EXECUTIVE AGENCY (ERCEA)

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

INFORMATION TO BE GIVEN²

1/ NAME AND ADDRESS OF THE CONTROLLER

**European Research Council Executive Agency (ERCEA)
Place Rogier 16, 1210 Brussels**

Represented by:

Carina LENARDUZZI, Head of Unit ERCEA D.2 "Human Resources, Infrastructure and Document Management", COV2 20/45, Email: carina.lenarduzzi@ec.europa.eu, phone: 02.29.63668

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

Unit D.2 "Human Resources, Infrastructure and Document Management"

**Contact person: Khady DIONGUE, COV2 20/060,
Email: Ndeye-khady.diongue@ec.europa.eu, phone: 02.29.90479**

3/ NAME OF THE PROCESSING

Selection and Recruitment of Seconded National Experts (SNEs), Trainees and Interim Agents

4/ PURPOSE OR PURPOSES OF THE PROCESSING

¹ OJ L 8, 12.01.2001.

² Please attach all necessary backup documents

The personal data processed during the selection and recruitment phases are necessary to evaluate the eligibility, the expertise and the profile of job applicants as well as complete the recruitment of the most suitable candidates for open positions.

5/ DESCRIPTION OF THE CATEGORY OR CATEGORIES OF DATA SUBJECTS

Job applicants for vacancies at the ERCEA in the position of SNEs, Interim Agents or Bluebook trainees, persons providing personal references to job applicants.

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

Data common to SNEs, Interim Agents and Trainees:

- Identification data:

- full name
- personal identification numbers
- picture (when indicated by the data subject in her/his Curriculum Vitae (CV))
- telephone/fax number
- e-mail address
- private address
- nationality
- date of birth
- gender.

- Data concerning the data subject's private sphere:

- hobbies (when indicated in CV)
- marriage or other family related information (when indicated in CV)
- other personal skills and competences: technical, organisational, social, artistic (when indicated in CV)
- "Good behaviour certificate", provided at recruitment stage: interim agents provide it to the Temping Agency, trainees to DG EAC.

- Work experience including, for each experience:

- start and end dates
- position/title held
- main activities and responsibilities
- name and address of the employer
- type of business/sector
- contact details of persons providing a reference to the job applicant (when indicated in CV).

- Education and training information including, for each course:

- start and end dates
- title/qualification/diploma (level in the national and/or international classification)
- main subject(s)
- name of the organisation providing the education or training.

- Languages including, for each language:

- level of understanding: listening/reading/spoken/written proficiency

- details about the course(s) attended.

- Data gathered to request an access badge: full name, date of birth, nationality, validity of the ID card, arrival date, end dates of access requested, name of temping agency (for Interim Agents only).

- Data collected in the excel file used by the D.2/Selection team to list received applications: last name, first name, gender, address, ZIP code, city, country, country representing, phone number, e-mail, citizenship, birth date, language(s), studies, application date, status (eligible, invited, confirmed, short-listed).

Personal data to be provided by SNEs only:

- bank account number (for the purpose of reimbursement of travel expenses),
- marital status, number and age of dependent children,
- existence of a physical handicap requiring special measures to be taken for the applicant to carry out her/his work,
- proof of previous employments (can include previous salary statements, which are reviewed but not kept by the Agency)

Personal data to be provided by Interim Agents ONLY:

- Personal data gathered in the "Statement on working Ethics, confidentiality and data protection" (annex 10) signed by Interim Agents: first and last name, duration of contract.

- Data gathered in the excel file containing an annual list of Interim Agents: unit of employment, last name, first name, Sysper2 codes (per-ID, job ID), request for an interimaire and reasons for the request, prolongation request (if applicable).

- Data gathered in the purchase order for Interim Agents: first name, last name, start date and end date of contract.

No certificate of "good behaviour" is processed by the ERCEA: Interim Agents and Bluebook trainees provide a certificate of "good behaviour" to their temping agency or to the European Commission, DG EAC respectively; the ERCEA does not collect this certificate for SNEs.

The information is either collected during the selection process or to be provided at recruitment stage to the D.2/Recruitment team.

7/ INFORMATION TO BE GIVEN TO DATA SUBJECTS

A general Specific Privacy Statement (SPS) on the Selection Procedure is published on the ERCEA Intranet (HR & Privacy corner) and the ERC public website.

Additionally, for each selection procedure, candidates receive a specific SPS:

- SNEs: a Specific Privacy Statement on the "Selection and Secondment of National Experts (SNEs)" is published on the ERCEA intranet ("HR & Privacy" corner) and the ERC public website (annex 4).

- Interim Agents: a Specific Privacy Statement is published on the ERCEA intranet ("HR & Privacy" corner) and the ERC public website (see annex 5).

- **Bluebook trainees:** the website of the European Commission provides the trainees with an on the Europa Website: http://ec.europa.eu/stages/information/privacy_en.htm (annex 6).

The following sentence is included in ERCEA correspondence with candidates: "*Please be informed that your personal data are being dealt with in compliance with Regulation (EC) 45/2001 on the protection of personal data. For more information, please check the ERC internet site.*"

8/ PROCEDURES TO GRANT RIGHTS OF DATA SUBJECTS

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

As explained in the privacy statement, if a candidate would like to check, modify, correct or delete any personal data, s/he can apply to the Head of Unit D2 – Human Resources, Infrastructure and Document Management, the Controller, by sending an e-mail giving the details of their request to the mailbox ERC-SELECTION@ec.europa.eu.

If a request is introduced for accessing, rectifying, blocking, erasing or objecting to the use of data provided by the data subject, the D.2/Selection team treats it immediately and will resolve it within three months from the receipt of the request.

Candidates are informed in the privacy statements for SNEs that this right only applies in the case of factual data processed within the selection procedure. For fairness of the selection procedure, any limitation to the right of rectification after the closing date of submitting applications only applies to data related to the admissibility criteria and not to the identification data. Identification data can be rectified at any time during the selection procedure.

9/ AUTOMATED / MANUAL PROCESSING OPERATION

The personal data processed during the selection and recruitment phases are used to evaluate the eligibility, the expertise and the profile of applicants and install them in the Agency. This allows the retention of the most suitable people for the open positions. During the process, candidates are requested to submit the information indicated in section 6 of this notification.

Generally, the ERCEA reserves the right to request the submission of documentary evidence for any information provided by a job applicant on the day of the selection interview.

SELECTION and RECRUITMENT

A. SNEs

1. Selection of SNEs:

The selection of candidates starts with a call for expression of interest. The call for expression of interest is sent to all National Permanent Representations and the EFTA Secretariat, and is published in the EPSO website and RTD intranet.

Once the ERCEA receives the CV of an SNE applicant, the Selection Committee screens the CVs of all candidates in order to identify the shortlisted candidates to be invited to interviews. All candidates are then notified of the outcome of this screening via registered email (Ares).

Following the interviews, a reserve list of successful candidates is established and all invited candidates are notified of the outcome of the selection. The CVs of successful candidates on a reserve list are retained for the purpose of recruitment while the CVs of all other candidates are filed and archived in a secured archive room with restricted access for authorized staff members only.

The reserve list is valid for one year, renewable, and CVs are retained as long as the reserve list is valid, kept in a folder that is filed in a locked cupboard with restricted access. Once the list expires, those CVs are archived in the relevant selection folder.

2. Preparation of the Recruitment (Secondment) of SNEs:

The D.2/Selection team sends an email to the selected candidate stating the intention to offer her/him a post as Seconded National Expert and asking for her/his agreement. A list of documents is attached to the email which needs to be filled in by the future SNE and her/his employer (templates are attached to the procedure on the selection and recruitment of second national experts, see annex 8):

*** Documents from the future SNE:**

- "Statement on my honour" (annex 6 to the procedure)
- "Personal details" form (annex 7 to the procedure)

*** Documents from the employer:**

- "Declaration of conflict of interest" (annex 8 to the procedure)
- "Declaration of SNEs time in service" (annex 9 to the procedure)
- "Declaration on expenses and allowances" (annex 10 to the procedure)
- "Declaration on the nature of the employer" (annex 11 to the procedure)

Once the documents have been returned completed and have been checked for being in line with the SNE rules, the Agency (the Director) sends a letter to the Permanent Representation of the country that presents the candidate with a proposed start date (see annex 2 to the procedure in annex 8 to this notification: nomination letter template). The Permanent Representation concerned then confirms the secondment and the start date in a letter.

This exchange of letters between the Agency and the Permanent Representation represents the decision of secondment. Upon the arrival of the SNE s/he needs to fill in the "Legal Entity" (see annex 17) and "Financial Identification" (see annex 18) forms (if the information has not already been provided during the earlier stages of the selection procedure).

B. Interim Agents

1. Selection of Interim Agents:

When a Unit is looking to hire an Interim Agent it seeks the approval of the ERCEA's Director, by sending him/her a note via Ares. This note contains the desired start and end date and the function group of the Interim Agent but no reference to names or personal data of a concrete candidate.

Once the Director approves the recruitment, the D.2/Selection team contacts one of the temping agencies, which were awarded a contract for the provision of Interim Agents (Tempo Team, Manpower and Randstad). The temping agency then submits by email the CVs of interesting candidates for the consideration by the ERCEA. The CVs are printed and placed

into a confidential envelope, which a representative of the unit requesting the Interim Agent picks up in person.

The head of the service requesting an Interim Agent receives the candidates' CVs and selects one candidate. Interviews with proposed Interim Agents may be organised by the requesting unit or a candidate may be directly chosen. The head of service informs the D.2/Selection team of the resulting choice. The D.2/Selection team launches the request by sending a scanned copy of the "service order" form to the temping agency by email (registered in Ares) while the original document is posted by letter. The selection process and exchange of (electronic) information is either completed by way of direct contact between the D.2/Selection team and the candidate, or the D.2/Selection team and the temping agency concerned, depending on the type of open position to be filled.

2. Recruitment of Interim Agents:

The Interim Agent signs a weekly contract with the temping agency and Unit D.2 submits by email, also weekly, every Friday morning, a scanned copy of timesheets provided by the Interim Agent and signed by the hierarchical superior and the D.2/Selection team to the temping agency. The Interim Agent her/himself sends the original document to the temping agency.

From the 20th of June 2012 onwards Interim Agents sign the following declaration before their entrance into service: "Statement on Working Ethics, Confidentiality and Data Protection" (see annex 10).

C. Bluebook trainees

The selection of candidates starts with a direct extract from the Virtual Bluebook application, managed by the European Commission, see http://www.cc.cec/EAC/stage/vbb/consult/index_en.cfm?hashcode=35F4A8D465E6E1EDC05F3D8AB658C551. (Pre-selection of bluebook trainees is done by the European Commission and has been notified to its Data Protection Officer in notification DPO-1145.1, which was prior checked by the EDPS in case 2008-485.)

The database of pre-selected Bluebook candidates is open to all trainee coordinators of the European Commission and its services, including the ERCEA and its management. All heads of service (or her/his delegated trainee coordinator) can search the candidates' CVs in the database and choose several candidates, which are of interest to the service.

Only the D.2/Selection team has access to the candidate's contact details and, upon reasoned request, provides the Unit's coordinator with their contact details by printing the whole file of the trainee. The file is introduced into a confidential envelope which the person in charge of the requesting unit picks up in person.

Once the Unit decides on a candidate, the D.2/Selection team books the candidate in the "Virtual Bluebook" application. The D.2/Selection team launches the formal request in Ares which is then signed by the ERCEA's Director and sent to DG EAC of the European Commission. DG EAC prepares the trainee's personal file, reimbursement of travel expenses, the contract, insurance and payments, and guides the trainee until s/he enters into the service of the ERCEA.

REIMBURSEMENT OF TRAVEL COSTS

Reimbursement of travel costs during the selection and recruitment processes are organised as follows:

- * **Bluebook Trainees**: are reimbursed directly by DG EAC.

* **SNEs**: applicants called for an interview and/or recruited as SNEs can apply for reimbursement of travel expenses. The candidate fills in the "Contribution to travel and subsistence expenses" form (annex 11) and attaches the supporting documents to the file. The D.2/Selection team prepares the reimbursement file and circulates it in Ares, addressed to D.0/Administrative Budget. In parallel, an excel table (see annex 12) is filled in by the D.2/Selection team and completed by D.0. The Excel table remains on the shared drive of D.0/Budget Cell. D.0 sends the file to the Commission's PMO service for reimbursement.

* Not applicable to **Interim Agents**.

FOLLOW-UP OF RECRUITMENT

Once recruited, the D.2/Selection team introduces the necessary information on SNEs, Interim Agents and Trainees into the Sysper2 HR application, managed by the European Commission (notified to the Commission's DPO under case number DPO-127.5). The ERCEA uses Sysper2 as agreed in the Memorandum of Understanding between the ERCEA and DG DIGIT (Ref. DIGIT – 00111 – 03) of 23/06/2011 (annex 19).

For Interim Agents, the D.2/Selection team prepares an excel file with the annual list of Interim Agents (template see annex 14) to allow for a global overview and monitoring of all Interim Agents. Another excel file is sent to D.2/Security (Local Security Officer) for access rights management, who will introduce the request for a new badge into Oriana, a web-based application managed by the Commission (see print screen of Oriana, annex 16).

In order to assign a phone number and an office to the new staff member, D.2/Security sends an excel sheet containing the new jobholders' identification data (see section 6 of this notification for details) to the mailbox ERC-ICT-LOGISTICS@ec.europa.eu.

10/ STORAGE MEDIA OF DATA

- The ERCEA's shared drive (an electronic storage media) is used to store excel files.
- A locked archive room is used to store paper files: forms used for the selection of SNEs, CVs of SNEs and Interim Agents, and timesheets and ID copy of Interim Agents.
- Virtual Bluebook: stores all information on Bluebook trainees (controlled by the European Commission as notified to the EDPS in case 2008-485, "Management of traineeships at the Commission").
- Sysper2: stores employment information of the data subjects (controlled by the European Commission, as notified to the EDPS in case 2005/406, "SYSPER2 - e-CV, the Commission's human capital database").

Personal data temporarily processed by a selection panel member or an HR Officer are locked into secure cupboards. Keys of the cupboard intended for selection files and access rights are administered by the authorised personnel of the HR unit.

Members of the selection committee are responsible for maintaining the confidentiality of any documents or electronic files sent to them. They are requested to return, erase or destroy all confidential documents or files received (See "Guidelines for Selection Committee Members", annex 20). If, in addition to the documentation in the selection file, for practical reasons a supplementary "work" copy of a personal document is made during a selection/recruitment

procedure, selection committee members are reminded to destroy it with the conclusion of the relevant processing: at the end of the selection procedure.

11/ LEGAL BASIS AND LAWFULNESS OF THE PROCESSING OPERATION

- Decision StC160210/2d (revised on 25/10/2011) of the Steering Committee of the ERCEA laying down the "rules applicable to seconded national experts and national experts in professional training at the European Research Council Executive Agency" (Ref. Ares(2011)1255262 - 23/11/2011, annex 1).
- Rules governing the official traineeships scheme of the European Commission (Commission Decision of 2.03.2005 - C(2005)458) (annex 9).
- Service Level Agreement ERCEA - European Commission on bluebook trainees (see annex 2).
- Framework Contract for Interim Agents (annex 3 (a)-(c):
 - * Tempo Team: "RAAMCONTRACT MET MEERDERE CONTRACTANTEN HR/R3/PR/2011/023/1 ERCEA/D2/2011/71" (Ref. Ares(2011)1309159 - 05/12/2011),
 - * Randstad: "CONTRAT CADRE MULTIPLE HR/R3/PR/2011/023/2 ERCEA/D2/2011/72" (Ref. Ares(2011)1309159 - 05/12/2011),
 - * Manpower: "CONTRAT CADRE MULTIPLE HR/R3/PR/2011/023/3 ERCEA/D2/2011/73" (Ref. Ares(2011)1400099 - 22/12/2011).
- Article 5(a) of the Regulation provides that personal data may be processed if "*processing is necessary for the performance of a task carried out in the public interest on the basis of the Treaties ... or other legal instrument adopted on the basis thereof*". These selection procedures are necessary for the management and functioning of the ERCEA.
- Since participation in the recruitment procedure is based on the candidates' own application, and candidates are informed beforehand about the information that must be provided during the selection and recruitment phases, the processing can also be considered lawful under Article 5(d) of the Regulation because "*the data subject has unambiguously given his or her consent*".

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

- Personnel in the ERCEA D.2/Selection team (HR unit) dealing with the selection procedure (D.2/Selection team).
- ERCEA D.2/Recruitment team (HR unit) for the recruitment file.
- Personnel in the financial circuit for the reimbursement of travel costs linked to the interview of applicants for SNE positions (only partial access) (see "reimbursement travel costs" excel table, annex 12).
- The members of the selection panel (statutory staff from the Agency that is charged with a specific selection procedure including, in the case of Interim Agents and Trainees, the management of the Unit in which the candidate would be placed once s/he is hired by the ERCEA).
- The AHCC (Authority Empowered to Conclude Contracts of Employment), i.e. the ERCEA Director.

- Selected DG HR staff members may have access to certain data uploaded into Sysper2 if a job applicant recruited by the ERCEA is hired by the Commission services at a later stage.
 - D.2/Security (Local Security Officer) and through him/her DG HR DS receives the data of the selected candidates in order to prepare their access badge and allocate an office/phone number to the new job holder.
 - If a candidate for an SNE position has been selected, the Permanent Representations/EFTA Secretariat are informed.
 - In addition, certain administrative details on any selection or recruitment may be disclosed, in compliance with the relevant current legislation and established case law, and on a temporary basis to legislative or supervisory bodies of the ERCEA, as well as auditing bodies.
- Continuous reminders are used in the different correspondences to any recipient: *"You are also kindly reminded to use the personal data you receive only for the purposes for which it is transmitted to you"*.

13/ RETENTION POLICY OF (CATEGORIES OF) PERSONAL DATA

SNEs and Interim Agents

- Files related to the organisation of selection procedures are kept for five (5) years as per the Common Commission Retention List (CRL).
- Unsolicited applications can be kept up to two (2) years (according to the CRL) (The ERCEA's processing operation "Unsolicited/spontaneous applications" will be notified to the EDPS within the next weeks).

SNEs only

- Non-recruited applicants that have been included into a "reserve list": the five (5) years retention period of their data applies starting from the date of the expiration of the reserve list. The validity of reserve lists applied until now depends on the vacancy notice and can vary between selection processes.
- The personal files of hired Seconded National Experts are retained for eight (8) years after the extinction of all rights of the person concerned and of any dependents, and for at least 120 years after the date of birth of the person concerned. The ERCEA applies the principles and retention periods indicated in the Common Commission Retention List by analogy (SEC(2007)970).

Trainees only

DG EAC keeps files on trainees for fifty (50) years and files on rejected trainees for 2 years (according to the CRL).

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

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

If a request is introduced for blocking/erasing data provided by the data subject, the D.2/Selection team will treat it immediately. Latest, it will be resolved within three months from the receipt of the request, and the applicant is kept informed about the process.

See also the ERCEA Implementing rules of Regulation 45/2001, Article 13.1: *"Further to their right to be appropriately informed about any processing of their personal data, data subjects may*

approach the relevant Controller to exercise their rights pursuant to Articles 13 to 19 [which include the right to block and erase] of the Regulation, as specified below:[...] c) The Controller shall, at any time within three calendar months of receipt of the request, grant access pursuant to Article 13 of the Regulation by enabling the data subject to consult these data on-site or to receive a copy thereof, according to the applicant's preference."

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.

Data is stored in an anonymous form in the excel sheets containing statistics on Interim Agents and SNEs.

No data on trainee selection is stored for historical, statistical or scientific purposes.

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

Not Applicable

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

These processing operations are subject to prior-checking in conformity with Article 27(2)(a), (b) and (d) of Regulation 45/2001, since they process data relating to health (see EDPS case no. 2009-763 (joint number 2010-0071) on the ERCEA's processing of health data) or suspected offences, criminal convictions or security measures and involve an evaluation of the applicants' ability to perform the job functions for which the selection and recruitment procedures have been organized. Applications for open SNE, Interim Agent or Bluebook trainee positions in the ERCEA are evaluated by the Selection Committee (SNEs) or the Unit requesting the candidate (Interim Agents and Bluebook trainees). In all cases, the CVs of the candidates are evaluated against the needs of the services and result in individuals being granted a work contract or not.

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) ✓

17/ COMMENTS

Since the processing operations have already been established (since July 2009), the present notification concerns an ex-post prior check.

List of attachments:

1. **Decision StC160210/2d (revised on 25/10/2011) of the Steering Committee of the ERCEA laying down the "Rules applicable to seconded national experts and national experts in professional training at the European Research Council Executive Agency" (Ref. Ares(2011)1255262 - 23/11/2011).**
2. **Service Level Agreement ERCEA-European Commission on bluebook trainees.**
3. **Framework contracts with interim agencies:**
 - (a) ***Tempo Team: "RAAMCONTRACT MET MEERDERE CONTRACTANTEN HR/R3/PR/2011/023/1 ERCEA/D2/2011/71" (Ref. Ares(2011)1309159 - 05/12/2011).**
 - (b) ***Randstad: "CONTRAT CADRE MULTIPLE HR/R3/PR/2011/023/2 ERCEA/D2/2011/72" (Ref. Ares(2011)1309159 - 05/12/2011).**
 - (c) ***Manpower: "CONTRAT CADRE MULTIPLE HR/R3/PR/2011/023/3 ERCEA/D2/2011/73" Ref. Ares(2011)1400099 - 22/12/2011).**
4. **SPS Selection and Secondment of National Experts (so called SNEs).**
5. **SPS Use of "Interim Staff".**
6. **SPS "Application form for the official in-service training with the European Commission", to be found here http://ec.europa.eu/stages/information/privacy_en.htm.**
7. **Use of interim staff at ERCEA Procedure Ref. Ares(2011)487164 - 04/05/2011.**
8. **Procedure to select and second national experts, Ref. Ares(2011)672344 - 22/06/2011.**
9. **Rules governing the official traineeships scheme of the European Commission (Commission Decision of 2.03.2005 - C(2005)458).**
10. **"Statement on working ethics, confidentiality and data protection".**
11. **"Contribution to travel and subsistence expenses".**
12. **Excel template for travel expenses reimbursement.**
13. **Excel template for SNEs contact details.**
14. **Excel template for annual list of Interim Agents.**
15. **Excel template for badge requests.**
16. **Print-screen of Oriana.**
17. **"Legal Entity" form.**
18. **"Financial Identification" form.**
19. **Memorandum of Understanding between the ERCEA and DG DIGIT (Ref. DIGIT – 00111 – 03) of 23/06/2011**
20. **Guidelines for Selection Committee Members (Ares 2012)624099 - 24/05/2012)**

PLACE AND DATE: **Brussels, 15/11/2012**

DATA PROTECTION OFFICER: **Nadine KOLLOCZEK**

INSTITUTION OR BODY: **ERCEA**