

REGISTER NUMBER: 1431
NOTIFICATION FOR PRIOR CHECKING
Date of submission: 24/01/2017 Case number: 2017-0114 Institution: EUIPO Legal basis: Article 27-5 of the regulation CE 45/2001 ⁽¹⁾ <div>(1) OJ L 8, 12.01.2001</div>

INFORMATION TO BE GIVEN ⁽²⁾ <i>(2) Please attach all necessary backup documents</i>
1/ Name and adress of the controller SUSANA PEREZ FERRERAS (DIRECTOR OF THE HUMAN RESOURCES DEPARTMENT) - HRD European Union Intellectual Property Office Avenida de Europa, 4, E-03008 Alicante, Spain
2/ Organisational parts of the institution or body entrusted with the processing of personal data Human Resources Department, EUIPO
3/ Name of the processing Processing of Personal data in the area of Staff Evaluation - Periodical Appraisals, Probationary Reports, Promotion of Officials, Regrading of Temporary and Contract Agents, Certification Procedure, Renewal of Contracts
4/ Purpose or purposes of the processing 1. Drafting appraisal reports for members of staff in compliance with Article 43 of the Staff Regulations (SR). Appraisal reports are mainly used to assess the performance (with the use of performance indicators) and achievements of the staff member with regard to his/her objectives (including with regard to the established reference numbers), the conduct and the personal career development of the person. The performance data collected and stored by the IT tool monitoring individual production and timeliness will be used as one of the assessment elements of the data subject concerned, as well as of the respective management responsible. The information collected will be compared with established reference numbers and established procedures for the appraisal; 2. Drafting proposal for the evaluation of Seconded National Experts (SNE) and international experts under Decisions EUIPO N°ADM-10-10Rev of 12/09/2011 (SNE) / N°ADM-12-106 of 19/11/2012 (international experts) / N°MB-16-13 of 31/05/2016 (SNE), to contribute to the appraisal conducted by their employer; 3. Drafting probationary reports for staff members in compliance with Article 34 of the SR and Articles 14 and 84 of the Conditions of Employment of Other Agents (CEOS); 4. The application of the new provisions of SR involves the use of appraisal reports for other purposes, specifically, the blocking of the advancement in step in case of an unsatisfactory performance evaluation report; 5. The performance evaluation of the data subject is also used for the purpose of contract renewal procedures in accordance with the Guidelines for the renewal of temporary and contract agents at the Office; promotion and certification procedures.
5/ Description of the category or categories of data subjects EUIPO's staff members (officials, temporary and contract agents) / staff members on probationary period / seconded national experts and international experts of the EUIPO.

6/ Description of the data or categories of data

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

- Administrative data: full name, personal number, function group, grade, seniority in grade, administrative address, statutory link, working conditions, teleworking (if it applies).
- Data related to the job: job assignments, department, position, job profile, administrative data related to the previous career in EUIPO (if the case), starting data in the job.
- Data relating to the appraisal: employee self-assessment, objectives (what was to be accomplished), success criteria or key performance indicators, as well as data collected and stored by the IT tool concerning individual production and timeliness as compared to the reference numbers and timeliness established in the data subject objectives. Name of the reporting officer(s) /countersigning officer(s) / appeal assessor, assessment / comments regarding the staff member competencies including conduct in the service, efficiency, abilities, potential to assume another function / other duties and the jobholder's comments.

7/ Information to be given to data subjects

Staff members, seconded national experts and international experts are informed by an official communication and administrative decision available/disseminated through the relevant page of EUIPO's Intranet and particularly by the specific privacy statement.

Data subjects are also informed by the Director / Deputy Director / Head of Service when establishing their individual working objectives.

8/ Procedures to grant rights of data subjects

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

The rights of the persons concerned are guaranteed by the rules provided for in Article 12 – exercise of data subjects' rights - of the EUIPO's Administrative Decision Nr. 08-40 of 13 November 2008 adopting the implementing rules regarding Regulation (EC) No 45/2001.

Right to access:

Without prejudice to point 7 above, the data subject concerned can request access to the data of his/her appraisal and may express in writing his/her comments on the appraisal drawn up by the reporting officer.

Performance data collected and stored by the IT tool concerning production and timeliness will be made available through a system console that will be accessible to the data subject at any time.

Right to rectification:

The data subject has the right to request in writing the rectification of incorrect factual data to his/her line manager. When justified, rectification will be done within one month. The effective exercise of data subject's rights, in particular with regard to data generated automatically will be ensured by the controller. In view of the fact that reports on the production and timeliness are generated automatically, the staff members will be duly advised on the logic involved in the processing so that they understand how such data are generated and so that they can have the data rectified if they are not correct or can justify them, prior to the evaluation exercise.

The rectification of by nature subjective evaluation data can be done within the respective appeal procedures.

9/ Automated / Manual processing operation

Performance data collected from EUIPO databases through automated means, and compiled in centralized systems that will automatically index and organize the information based on the reference numbers and objectives provided by the Departments.

The remaining data (such as the comments of the Reporting Officer) is manually inserted by the respective parties involved in the evaluation procedure.

10/ Storage media of data

Electronic appraisal reports are stored on HR Allegro and its modules (stored in SQL database), as well as on Alfresco / ShareDOX (storage of the personal file).

Data related to appraisal reports has restricted access rights. Only authorized staff members working in these files have access to data on a strict need to know basis.

Electronic documents are password protected. All records are held securely so as to safeguard the utmost confidentiality and privacy of the data therein.

<p>11/ Legal basis and lawfulness of the processing operation</p> <p>Article 5(a) and 27, 2(b) of Regulation 45/2001 (“processing is necessary for the performance of a task carried out in the public interest on the basis of the Treaties establishing the European Communities or other legal instruments adopted on the basis thereof [...]”)</p> <p>Articles 43 and 44, par. 1 of the SR, Article 15, par. 2, Article 20, par. 4, Article 87 and 92 of the CEOS</p> <p>Probationary reports: Article 34 of SR and Articles 14 and 84 of the CEOS</p> <p>Decision OHIM N°04-10 Rev of 29/03/2012, Article 4 (adaptation of annual objectives for teleworkers)</p> <p>Decision of the Commission C(2013)8985 final of 16/12/2013 applied by analogy (implementing Article 43 and Article 44 par. 1 of SR)</p> <p>Decision of the Commission C(2013)2226 final of 07/04/2014 applied by analogy (implementing Article 87 (1) of CEOS and Article 44, par. 1 of the SR)</p> <p>Decisions EUIPO N°ADM-10-10Rev of 12/09/2011(SNE), / N°ADM-12-106 of 19/11/2012 (international experts) / N° MB-16-13 of 31/05/2016 (SNE)</p> <p>Guidelines for the renewal of temporary agent contracts of 28/01/2016 / Guidelines for the use and selection of contract agents of 18/05/2016 / QSD-0060 Work instructions (renewal of contracts of temporary or contract agents)</p> <p>EUIPO Administrative Decision 14-19-Rev.</p> <p>Framework for the workforce management in OHIM of 28/01/2016.</p>
<p>12/ The recipients or categories of recipient to whom the data might be disclosed</p> <p>Access to data may be granted on a strict need to know basis to:</p> <ul style="list-style-type: none"> - The person concerned (officials/ temporary agents / contract agents/ newly recruited staff members/ staff members newly appointed as heads of service/ SNE's and international experts); - The reporting officer(s) who is(are) in charge of drafting the appraisal report /or draft of proposal of evaluation for SNE's / or the probationary report; - The countersigning officer(s) who is (are) in charge of validating the report and the appeal assessor(s) - The persons authorized by the reporting/countersigning officer(s) and appeal assessor(s) to assist them in the management of the procedure and in the preparatory work for the appraisals or probationary reports (e.g.: assistants, team leaders) - The authorized staff of HRD in charge of appraisals and of career development - The members of the Management Committee for harmonization purposes - The authorized staff of HRD working on the contract renewal procedures and the jobholder's Director or delegated person - The authorized staff of HRD / , Verification Office (Finance Department) and the PMO to block the advancement in step/downgrade or dismiss (in case of unsatisfactory appraisal/report), as well as for renewal of contracts. Only the strict necessary information is disclosed - When applicable (e.g.: probationary reports, career development, contract renewal procedure), the Appointing Authority (or the Authority Authorized to conclude Contracts) and the authorized staff of the Cabinet - The IT technician, if need for technical assistance <p>In case of refusal to accept the report:</p> <ul style="list-style-type: none"> - The appeal assessor(s); - The members of the Joint Evaluation and Promotion Committee, only in case of an appeal on the appraisal report - The case arising, the Legal Service and the Court of Justice - Other EU institutions in case of transfer of the data subject <p>The proposal for the evaluation of SNE's /international expert will be sent to their employer on a yearly basis.</p>
<p>13/ retention policy of (categories of) personal data</p> <p>Electronic word files used for drafting the individual reports (stored on individual PCs of the reporting officers until the report / draft of evaluation is deemed final) will be deleted by the reporting officers at the conclusion of the appraisal/evaluation exercise.</p> <p>The final report (completed and signed) is stored in the personal file (Allegro / Alfresco) and kept during the same period of retention as for the personal files (8 years after the extension all rights of the person concerned and of any dependants, and at least 120 years after the birth of the person concerned). Prolonged period is considered for this document as it is integral part of the jobholder personal file existing in the Office.</p>
<p>13 a/ time limits for blocking and erasure of the different categories of data (on justified legitimate request from the data subject)</p> <p>Legitimated requests accepted by the controller are treated immediately and in any case not later than 15 days from the date of receipt of the request.</p>
<p>14/ Historical, statistical or scientific purposes</p> <p>n.a.</p>
<p>15/ Proposed transfers of data to third countries or international organisations</p> <p>n.a.</p>
<p>16/ The processing operation presents specific risk which justifies prior checking (<i>please describe</i>):</p> <p>YES.</p> <p>AS FORESEEN IN: ARTICLE 27(B) – PROCESSING OPERATIONS INTENDED TO EVALUATE PERSONAL ASPECTS RELATING TO THE DATA SUBJECT, INCLUDING HIS OR HER ABILITY, EFFICIENCY AND CONDUCT.</p>

17/ Comments

Documents submitted as attachments:

Annex 1 - Specific Privacy Statement;

Annex 2 - Dec OHIM N°04 Rev of 29/03/2012, Article 4 (adaptation of annual objectives for teleworkers);

Annex 3 - Dec COM C (2013)8985 final of 16/12/2013 applied by analogy (implementing Article 43 and Article 44 par. 1 of SR;

Annex 4- Dec COM C (2013)2226 final of 07/04/2014 applied by analogy (implementing Article 87(1) of CEOS and Article 44, par. 1 of the SR;

Annex 5 - Decisions EUIPO N°ADM-10-10Rev of 12/09/2011(SNE),/N°ADM-12-106 of 19/11/2012 (international experts)/N° MB-16-13 of 31/05/2016 (SNE);

Annex 6 - Guidelines for the renewal of temporary agent contracts of 28/01/2016/ Guidelines for the use and selection of contract agents of 18/05/2016/ QSD-0060 Work instructions (renewal of contracts of temporary or contract agents);

Annex 7 - EUIPO Administrative Decision No ADM 14 19- Rev

on individual production and timeliness carried out with respect to trade marks and designs first instance decisions or tasks in the Operational Departments at the European Union Intellectual Property Office

PLACE AND DATE: Alicante, 24 January 2017

DATA PROTECTION OFFICER: **Pedro Duarte Guimarães**

INSTITUTION OR BODY: **EUIPO**

To be filled out in the EDPS' office