

REGISTER NUMBER: 207

NOTIFICATION FOR PRIOR CHECKING

Date of submission: 07/05/2007

Case number: 2007-294

Institution: Commission européenne

Legal basis: article 27-5 of the regulation CE 45/2001⁽¹⁾

(1) OJ L 8, 12.01.2001

INFORMATION TO BE GIVEN⁽²⁾

(2) Please attach all necessary backup documents

1/ Name and adress of the controller

2) Name and First Name of the Controller: WILL Matthias

3) Title: Head of Unit

4) Directorate, Unit or Service to which the Controller is attached: A.05

5) Directorate General to which the Controller is attached: ADMIN

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

26) External Company or Directorate General to which the Processor is attached:

25) External Company or Directorate, Unit or Service to which the Processor is attached:

3/ Name of the processing

Conseillers spéciaux: vérification de l'absence de conflit d'intérêt et publication sur Europa

4/ Purpose or purposes of the processing

- To analyse the activities of Special advisers in order to avoid conflict of interest with their future activity as Special adviser to the European Commission in the sense of articles 11 and 11a of the Staff Regulations (applicable by analogy to Special advisers)
- To publish the declaration on the honour on Europa if the contract is concluded
- To publish on the Europa Website of the European Commission at the page of the Commissioners the list of the Special advisers of the European Commission (name, mandate, name of Commissioner advised, Curriculum vitae and photo)
- to transmit the nominative list to the Budgetary authority

5/ Description of the category or categories of data subjects

14) Data Subject(s) concerned:

Special advisers of the European Commission (employed under article 5 of the Conditions of Employment of Other Servants of the European Community) advising Commissioners

16) Category(ies) of Data Subjects:

See pt. 14.

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

17) Data field(s) of Data Subjects:

Attention: Please indicate and describe in the answer to this question also data fields which fall under article 10

Professional and non-professional activities (remunerated or not/honorary activities) currently carried out (at the time of appointment as Special adviser) and during the last three years preceding the conclusion of a contract as Special adviser.

See attached forms.

This information needs to be updated by the Special Adviser as necessary.

Some activities may indicate political or union membership falling under Art. 10.

The processing of these data is justified in most case by the fact that the information has manifestly been made public by the data subject (art 10.2d); this should cover all official positions in political parties or trade unions and elected offices; for the cases where the political affiliation is not public (e.g when the data subject is advising a political party), then express consent is required (10.2.a), which should be obtained through an appropriate drafting of the forms.

18) Category(ies) of data fields of Data Subjects:

Attention: Please indicate and describe in the answer to this question also categories of data fields which fall under article 10

See pt. 17.

7/ Information to be given to data subjects

15a) Which kind of communication(s) have you foreseen to inform the Data Subjects as described in articles 11 - 12 under 'Information to be given to the Data Subject'

A Note on Regulatory Information (article 11 of Regulation No 45/2001 on data protection) is transmitted to the Special Adviser together with the forms to be used for the Declaration on the honour and the Declaration of interests. This Note on Regulatory Information also informs the Special advisers concerning the publication of the list of the Special advisers of the European Commission (name, mandate, name of Commissioner advised, Curriculum vitae and photo) on the Europa Website of the European Commission at the page of the Commissioners.

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

15b) Which procedure(s) did you put in place to enable Data Subjects to exert their rights: access, verify, correct, etc., their Personal Data as described in articles 13 - 19 under 'Rights of the Data Subject' :

The Note on Regulatory Information contains the necessary information.

9/ Automated / Manual processing operation

7) Description of Processing:

Attention: Please describe in the answer to this question if you process personal data falling under article 27 "Prior-Checking (by the EDPS - European Data Protection Supervisor)"

Collect from Special Advisers a Declaration on the honour according to which the Special adviser is not in a situation of conflict of interest with regard to his/her mandate and a Declaration of activities. Estimate the activities of Special Advisers, and determine the compatibility with their function in order to identify and avoid potential conflict of interest in the sense of articles 11 and 11a of the Staff Regulations (applicable by analogy to Special advisers); publish the Declaration on the honour on the Europa web site.

Publish on the Europa Website of the European Commission at the page of the Commissioners the list of the Special advisers of the European Commission (name, mandate, name of Commissioner advised, curriculum-vitae and photo).

Transmit the nominative list of the Special advisers of the European Commission to the Budgetary authority.

If necessary, the aspects on remuneration and length of contract (number of days worked) of Special advisers could be communicated to a jurisdiction or a supervising body, to the press and/or published on Europa.

This processing operation is submitted to the EDPS in the framework of Art. 27.2.4.

The documents quoted above (Declaration on the honour and Declaration of activities) are in attachment (in French and English). Sample contracts (for a paid and an unpaid Special adviser) are also attached.

8) Automated Processing operation(s):

- Declarations on the honour and List of the Special advisers of the European Commission (name, mandate, name of Commissioner advised, curriculum-vitae and photo): storage and disclosure by transmission (publication on the Europa web site);

- Declarations of activities: if there is a need for the controller to send Declarations of activities by email, this will be done using SECEM (Secure e-mail).

9) Manual Processing operation(s):

The Controller, the Head of Unit of DG ADMIN/A5 "Organisation chart and management staff", collects both the Declarations on the honour and the Declarations of activities;

She/he then analyses the Declaration of activities (when necessary after the opinion of the Head of Cabinet of the Member of the European Commission in charge of "Administrative affairs, Audit and anti-fraud", the Commissioner using the advice of the Special adviser and DG ADMIN/B3 "Droits et Obligations non-pécuniaires", co-controller and responsible for ethical matters), in order to determine if there is a potential conflict of interest in the sense of articles 11 and 11a of the Staff Regulations (applicable by analogy to Special advisers)

10/ Storage media of data

Declarations of activities:

- collection, recording, organisation, storage, retrieval: by the controller (DG ADMIN/A5);
- consultation and use: by the controller DG ADMIN/A5 (and when necessary after opinion of the Head of Cabinet of the Member of the European Commission in charge of "Administrative affairs, Audit and anti-fraud", the Commissioner using the advice of the Special adviser and DG ADMIN/B3) : analysis of Declaration of activities in order to determine if there is a potential conflict of interest in the sense of articles 11 and 11a of the Staff Regulations (applicable by analogy to Special advisers)
- The Declaration of activities (paper format) are kept in a secure cabinet. If the controller receives Declarations of activities filled in and signed by (a) Special adviser(s), these Declarations will be copied on paper format and kept in the secure cabinet. They will also be kept electronically in an encrypted manner (zipped with a password/SECEN). In case of necessity to send these Declarations to the recipients, the Declarations will be sent also in an encrypted manner.

11/ Legal basis and lawfulness of the processing operation

11) Legal basis of Processing:

- Article 124 of the Conditions of Employment of Other Servants ; articles 11 and 11a of the Staff Regulations of the European Communities; Rules governing Special advisers to the European Commission (cf. 2 attachments: Décision de la Commission C(2004)1318 du 7/04/2004 modifiant la Réglementation relative aux Conseillers spéciaux du 2/10/2002)
- Règlement (CE) N° 1049/2001 du Conseil et du Parlement européen sur l'accès aux documents

12) Lawfulness of Processing:

Answering this question please also verify and indicate if your processing has to comply with articles 20 "Exemptions and restrictions" and 27 "Prior checking (by the EDPS)"

Art. 5.a 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 or other legal instruments (this includes the management and functioning of the Institution).

Art. 20 is not applicable.

This notification is submitted under Art. 27.2.4.

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

20) Recipient(s) of the Processing:

Declaration of activities: The Member of the European Commission in charge of Administrative Affairs, Audit and Anti-fraud with a view to the appointment of Special Advisers, and the Commissioner advised by the Special adviser

Declarations on the honour and list of the Special advisers of the European Commission (name, mandate, name of Commissioner advised, Curriculum vitae and photo): Europa Website

Nominative list of Special advisers: Budgetary authority

21) Category(ies) of recipients:

See pt. 21.

13/ retention policy of (categories of) personal data

5 years after the end of the contract. Any conservation beyond that period must be duly justified on a case by case basis, for example, it should be necessary for the establishment of a legal claim

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)
(on justified legitimate request from the data subject)
(Please, specify the time limits for every category, if applicable)

22 b) Time limit to block/erase data on justified legitimate request from the data subjects

Within a week on duly justified reasons by contacting the Controller.

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,

22 c) 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

27) Legal foundation of transfer:

Only transfers to third party countries not subject to Directive 95/46/EC (Article 9) should be considered for this question. Please treat transfers to other community institutions and bodies and to member states under question 20.

None, since the publication on the Internet is not considered as a transfer under Art. 9.

28) Category(ies) of Personal Data or Personal Data to be transferred:

N/A

16/ The processing operation presents specific risk which justifies prior checking (please describe): *(please describe)*:

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Art. 20 is not applicable.

This notification is submitted under Art. 27.2.4.

Article 27.2.(a) Processing of data relating to health and to suspected offences, offences, criminal convictions or security measures,

n/a

Article 27.2.(b) Processing operations intended to evaluate personal aspects relating to the data subject,

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Article 27.2.(c) Processing operations allowing linkages not provided for pursuant to national or Community legislation between data processed for different purposes,

n/a

Article 27.2.(d) Processing operations for the purpose of excluding individuals from a right, benefit or contract,

n/a

Other (general concept in Article 27.1)

n/a

17/ Comments

1) Date of submission:

10) Comments if applicable:

36) Do you publish / distribute / give access to one or more printed and/or electronic directories?

Personal Data contained in printed and/or electronic directories of users and access to such directories shall be limited to what is strictly necessary for the specific purposes of the directory.

If Yes, please explain what is applicable.

yes

The list of Special Advisers to the European Commission (with their name, mandate, name of Commissioner advised, Curriculum vitae and photo) is published on the Europa web site together with their Declarations on the honour.

The nominative list is transmitted to the Budgetary authority.

37) Complementary information to the different questions if applicable, including attachments to this notification which should not be public :

PLACE AND DATE:07/05/2007

DATA PROTECTION OFFICER: RENAUDIERE Philippe

INSTITUTION OR BODY:European Commission