

*(To be filled out in the EDPS' office)*  
**REGISTER NUMBER: 908**

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**NOTIFICATION FOR PRIOR CHECKING**

**DATE OF SUBMISSION: 08/10/2012**

**CASE NUMBER: 2012-0865**

**INSTITUTION: EUROPEAN RESEARCH COUNCIL EXECUTIVE AGENCY (ERCEA)**

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

**INFORMATION TO BE GIVEN<sup>2</sup>**

1/ NAME AND ADDRESS OF THE CONTROLLER

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

**Represented by:**

**Pablo Amor, ERCEA Director, COV2 24/130, Tel: 80167, Email: Pablo.Amor@ec.europa.eu as co-controller together with**

**Jose Labastida, Head of Department B "Scientific Management Department", COV2 22/127, Tel: 67935, Email: jose.labastida@ec.europa.eu.**

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

**ERCEA Unit B.1 "Process Management and Review"**

**Contact person: Victor Losada Gonzalez, Tel: 67923, Email: Victor.Losada-Gonzalez@ec.europa.eu**

3/ NAME OF THE PROCESSING

**Redress procedure**

<sup>1</sup> OJ L 8, 12.01.2001.

<sup>2</sup> Please attach all necessary backup documents

4/ PURPOSE OR PURPOSES OF THE PROCESSING

For complaints regarding the eligibility check and/or the peer review evaluation process of a particular proposal, a redress procedure is set up to report on any shortcomings in the results of the eligibility check or in the way a proposal has been evaluated, likely to have jeopardised the decision whether or not to fund the proposal.

**Reference:** This notification concerns a processing that is already partly covered by ERCEA notification DPO 5-2011 on IDEAS - Evaluation of Proposals and Grants Management, prior checked by the EDPS in case n° 2011-0845. The aim of this notification is to illustrate details of the redress steps that were only mentioned briefly in notification 5-2011.

5/ DESCRIPTION OF THE CATEGORY OR CATEGORIES OF DATA SUBJECTS

**Applicants:** Principal Investigators, scientific team members

**Host Institutions:** Contact persons, legal representatives

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

**Evaluation Phase:**

**1. Information on the Principal Investigators (PIs):**

- *Identification data:* name, title, gender, nationality, residence country, date, country and town of birth, contact address, phone, fax, email.

- *Special categories of data:*

- academic and research record,

- copy of PhD document (for Starting Grants),

- any significant career breaks (for career stage extension),

- data on children, military service and/or statutory service (to justify career breaks).

- *Health data:* medical certificates (for career stage extension).

**2. Information on the team members, if applicable:**

- *Identification data:* name, title, gender, nationality, residence country, date, country and town of birth, contact address, phone, fax, email.

- *Special categories of data:* academic and research record.

**3. Information on the authorised legal representative of the Host Institution:**

- *Identification data:* name, title, gender, position.

**4. Information on the contact person at the Host Institution:**

- *Identification data:* name, contact address, phone, fax, email.

The standard forms used to collect data on PIs, team members, legal representatives and contact persons are included in the Guide for Applicants (Section A1). In addition, PIs are

required to include a Curriculum Vitae in the part B1 of their application, for which there is no template.

When submitting the request for redress via CORDIS the applicant completes the following fields:

- *Identification data*: name, email, phone, name and postal address of Host Institution, country of origin, Call Identifier
- *Special categories of data*: date and reference number of the "feedback on the outcome of the peer review evaluation", proposal number, proposal acronym, proposal full title, details of the complaint

## 7/ INFORMATION TO BE GIVEN TO DATA SUBJECTS

In the acknowledge receipt sent to any complainant, for information purposes a footnote refers to the relevant 'Guide for Applicants' and the 'Specific Privacy Statement' on the Specific Programme IDEAS proposal evaluation and grant management (published on the ERC website), which provide information on the identity of the data controller, of any communication/transfer of data concerning him/her, of his/her rights, and of the measures enabling him/her to exercise his/her rights.

The Redress Office informs the complainant about the receipt of his complaint by issuing a holding reply within two weeks of the receipt of the complaint.

As soon as a decision on the case has been taken, an answer including the reasons for the decision is sent by the Director of the ERCEA or on his/her behalf, depending on the result of the redress procedure.

## 8/ PROCEDURES TO GRANT RIGHTS OF DATA SUBJECTS

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

The Specific Privacy Statement on the Specific Programme IDEAS proposal evaluation and grant management published on the ERC website establishes that *“If you want to check, modify, correct or delete any personal data, you should apply to:*

- *the ERCEA Director or the Head of Department B, who are responsible (i.e. the Controller and Co-Controller) for the processing of data under the "Proposals Evaluation Phase";*

- *the ERCEA Director or the Head of Department C, who are responsible (i.e. the Controller and Co-Controller) for the processing of data under the "Grants Management Phase"; by sending an e-mail giving details of your request to the mailbox indicated in point 6 below.*

**Evaluation Phase:** *The (Co-)Controller shall grant access to, modify, correct or delete any personal data following the applicant's request before the end of the call deadline. Once the call deadline has passed, the ERC shall grant access to but cannot accept any further additions or corrections of your data.*

**Preparation and Management phases:** *The (Co-) Controller shall grant access to, modify, correct or delete any personal data at any time within 45 calendar days from the receipt of the applicant's request until the proceedings are finalised and the file is closed.”*

If such a request is introduced, the ERCEA team treats it immediately and will resolve it latest within three months from the receipt of the request. The data subject will be informed if his/her request has been accepted and on which grounds (ERCEA implementation rules of Regulation 45/2001, art. 13.1).

Access to personal data may be limited on the grounds of Article 20, paragraph 1, of Regulation (EC) N° 45/2001.

#### 9/ AUTOMATED / MANUAL PROCESSING OPERATION

The applicant to an IDEAS call for proposals may request redress against procedural faults in the evaluation and eligibility processes, within a month from reception of the feedback on its proposal released by the ERCEA. If the request is eligible, an evaluation review committee (the so-called "*Redress Committee*") assesses the file. The final reply is sent to the applicant within 3 months from the redress submission deadline.

The Redress Committee consists of staff members of the ERCEA Scientific Department and other units, where applicable, that assemble the required competences to assess the proposal evaluation and redress request. It is chaired by a senior manager from outside of the Scientific Department and can only consider requests relating to shortcomings in the process of the proposal evaluation. It will not discuss or call into question the (scientific/technical) judgement of appropriately qualified experts who carried out the proposal evaluation.

The Redress Committee is supported by a "*Redress Office*" which follows up on the different administrative, organisational and coordination steps. It is composed of staff of the ERCEA Unit B.1.

The typical cases are explained on page 6 of the Redress procedure, see annex 1.

Having considered the applicant's request, the Redress Committee will draw a conclusion based on the available evidence and make a recommendation. Two types of outcome are possible:

- (1) No further action recommended;
- (2) Follow-up recommended.

The follow-up may consist in the correction of errors in the evaluation reports sent to applicants, or a partial or total re-assessment, or partial or total re-evaluation of the proposal.

Depending on the outcome, an answer to the applicant is prepared by the Redress Office and sent to the Director of the ERCEA. If the Director agrees with the opinion of the Redress Committee, the reply will be sent on his/her behalf to the complainant, in form of a standard letter explaining the follow-up, if any, and including the Redress Committee's conclusions. If the Director disagrees with the opinion of the Redress Committee, s/he will take the decision and reply directly to the complainant, using a similar standard letter with her/his conclusions appended.

In synthesis, the main elements of the work flow are:

- i. Electronic dispatch by Call Coordination of the initial information letters explaining the eligibility check if the proposal was considered ineligible or evaluation results, if the evaluation has been concluded by the experts.

- ii. If complaints are received via the CORDIS website, the ERCEA Redress Office registers all such complaints and the related proposals in a redress database.
- iii. The Redress Office issues a holding reply to the applicants within two weeks of the receipt of the complaint.
- iv. The Redress Office assembles a file with the relevant documents for each case received (the work programme, IAR, ER, panel report, experts' CVs, comments from scientific officers/panel coordinators and any other relevant information) and circulates the complete files with consolidated lists to all the Redress Committee members.
- v. The Redress Committee meets and assesses the complaints. If more information is requested to assess a particular case, the committee may need to reconvene at a later date.
- vi. A final report is prepared in each case and be sent to the ERCEA Director with the draft reply letter attached.
- vii. If the Director agrees with the opinion of the Redress Committee, s/he signs and the Redress Office sends the letter to the complainants on his/her behalf. A copy of the letter is registered by the Redress Office in the Redress archive.
- viii. The Redress Committee draws up statistics including all cases heard for a given call.

#### 10/ STORAGE MEDIA OF DATA

- Requests are submitted by the applicants via the CORDIS front office page (all information is stored in a database that resides on the servers of the European Commission and the ERCEA), soon to become the Participant Portal (PP):  
[http://cordis.europa.eu/fp7/ideas/redress\\_en.html](http://cordis.europa.eu/fp7/ideas/redress_en.html).
- Processed files are kept electronically in the specific folders of the ERCEA shared drive (an electronic storage device) and in Ares.
- Paper files are stored in the ERCEA dedicated premises of the Redress Office in COV2. If participants of the Redress Committee make additional paper copies they are requested verbally by the Chair at the beginning of the Committee meeting to destroy these copies after the redress case has been completed.

#### 11/ LEGAL BASIS AND LAWFULNESS OF THE PROCESSING OPERATION

- Articles 182 TFEU and 294 TFEU
- Decision n. 1982/2006 of the EP and the Council of 18 December 2006 concerning the concerning the Seventh Framework Programme of the European Community for research, technological development and demonstration activities (2007-2013)
- Regulation (EC) n. 1906/2006 of the European Parliament and of the Council of 18 December 2006, laying down the rules for the participation of undertakings, research

centres and universities in actions under the Seventh Framework Programme and for the dissemination of research results (2007-2013)

- Council Decision 2006/972/EC of 19 December 2006, concerning the specific programme: "Ideas" implementing the Seventh Framework Programme of the European Community for research, technological development and demonstration activities (2007 to 2013)
- Commission Decision 2007/134/EC of 2 February 2007, establishing the ERC, as amended by Commission Decision 2011/12/EU of 12 January 2011
- Commission Decision C(2007)2286 of 9 December 2010, on the adoption of ERC Rules for the submission of proposals and the related evaluation, selection and award procedures for indirect actions under the Ideas Specific Programme of the Seventh Framework Programme, as amended by Commission Decision (2010/767/EU) of 9 December 2010
- Council Regulation (EC) n. 58/2003 of 19 December 2002 laying down the statute for executive agencies to be entrusted with certain tasks in the management of Community programmes
- Commission Decision 2008/37/EC of 14 December 2007 setting up the ERC Executive Agency (ERCEA) for the management of the specific Community programme 'Ideas' in the field of frontier research in application of Council Regulation (EC) No 58/2003
- Commission Decision C(2008)5694 of 8 October 2008, delegating powers to the ERCEA with a view to performance of tasks linked to implementation of the specific programme Ideas in the field of research comprising in particular implementation of appropriations entered in the Community budget
- The ERCEA adopted a procedure on "Redress", approved by the Director and the ERCEA management on 29/10/2010 and last amended on 04/04/2011 (Ares(2011)393088).

The processing operation is lawful according to Article 5(a) in conjunction with Recital 27 and Article 5(d) of Regulation (EC) No 45/2001: The processing is necessary for the performance of a task carried out in the public interest on the basis of a legal instrument adopted on the basis of the Treaties establishing the European Communities (Commission Decision 2008/37/EC setting up the ERCEA); in particular, it is necessary for the management and functioning of the Agency. The processing is completed based on a request by the data subject, thereby giving his/her consent.

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

**Union institutions and/or bodies:**

*Within the ERCEA:* staff of the Scientific Department of the ERCEA, the members of the Redress Office and of the Redress Committee (composed of a Chair, Head of Department from outside the Scientific Department; the Redress manager(s) from unit B.1; the call managers from units B.2 and B.3; Scientific staff from units B.2 and B.3). A member of the legal unit D.3 can attend the Committee's meetings<sup>2</sup>& . The ERCEA Internal Audit Office may request access to redress cases.

*External experts:* experts that were involved in the original evaluation of the proposal on which a redress case is pending may form part of the redress committee. Additionally, independent experts and contractors who are working on behalf of the Commission for the purposes of proposal evaluation and the legal unit may access the data in specific cases.

- In addition, data may be disclosed in compliance with the relevant current legislation and established case law, and on a temporary basis to legislative and/or supervisory bodies and/or auditors, which may be European Union institutions or other, i.e. European

Commission, European Court of Auditors, the Internal Audit Service OLAF, EU Courts, the Ombudsman etc.

13/ RETENTION POLICY OF (CATEGORIES OF) PERSONAL DATA

**For applications retained for grant agreements, personal data (on paper and/or registered in databases) are kept as required by section 12.6.1.D of the Commission's Common Retention List (SEC(2007)970), applied by analogy in the ERCEA Retention Plan, i.e. ten (10) years after the end of the project concerned.**

**For applications which are not granted, personal data are kept for three (3) years after the end of the evaluation.**

**The file relating to the redress process is kept by the Redress Office for three (3) years from the relevant redress submission deadline.**

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)*

**As per 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.*

**Statistics are kept in an anonymous form: numbers of redress cases by call, panel and step of the evaluations only.**

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*):

The Redress Committee considers requests relating to shortcomings in the process of the proposal evaluation, aiming at a re-evaluation of the project proposal concerned with the possible result of receiving a grant. A negative redress decision may lead to exclusion of the proposal from possible granting or to changes in the grant. The redress procedure does not lead to a discussion or call into question the (scientific/technical) judgement of appropriately qualified experts who carried out the proposal evaluation but only review the evaluation process itself.

The typical cases are: Uncertainty about the eligibility of a proposal; Doubts over experts' competences, or impartiality; Dispute over scientific or technical judgements; Incorrect application of criteria or application of irrelevant criteria; Misinterpretation by the experts; Factual errors; Inappropriate comments; Mismatch between scores and comments; Claims that the experts cannot have reached a consensus.

AS FORESEEN IN:

1 Article 27.2.(a)

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

X1 Article 27.2.(b) ✓

*Processing operations intended to evaluate personal aspects relating to the data subject,*

1 Article 27.2.(c)

*Processing operations allowing linkages not provided for pursuant to national or Community legislation between data processed for different purposes,*

X1 Article 27.2.(d) ✓

*Processing operations for the purpose of excluding individuals from a right, benefit or contract,*

1 Other (general concept in Article 27.1)

17/ COMMENTS

Since the processing operations have already been established, the present notification concerns an ex-post prior check.

LIST OF ATTACHMENTS

1. ERCEA Redress procedure for proposal evaluation and proposal eligibility check, latest revision on 04/04/2012 (Ares(2011)393088).

2. CORDIS front page, as published on:

[http://cordis.europa.eu/fp7/ideas/redress\\_en.html](http://cordis.europa.eu/fp7/ideas/redress_en.html)



3. “(Specific Programme) IDEAS – Proposals Evaluation and Grants Management” SPS, as published on: <http://erc.europa.eu/document-library> (under section Documents/Data Protection/Privacy Statements).

REFERENCE is made to Article 27 prior check notification to the EDPS, case n° 2011-845 on "*(Specific Programme) IDEAS - Proposals Evaluation and Grants Management*".

PLACE AND DATE: **BRUSSELS, 08/10/2012**

DATA PROTECTION OFFICER: **KOLLOCZEK, NADINE**

INSTITUTION OR BODY: **ERCEA**