

*(To be filled out in the EDPS' office)*

**NOTIFICATION FOR PRIOR CHECKING**

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

**CASE NUMBER: 2012-0870**

**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, BE-1049 BRUSSELS**

**CARINA LENARDUZZI, HEAD OF UNIT ERCEA D.2 "HUMAN RESOURCES, INFRASTRUCTURE  
AND DOCUMENT MANAGEMENT", OFFICE: COV2 20/45, BRUSSELS**

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

**Responsible Unit in the ERCEA: D.2 "Human Resources, Infrastructure and Document  
Management"**

**Contact person: Ndeye Khady DIONGUE, Legal Adviser, office: COV2 20/060, phone:  
02.29/90479, email: Ndeye-Khady.Diongue@ec.europa.eu**

3/ NAME OF THE PROCESSING

**ERCEA Internal Mobility of staff members**

4/ PURPOSE OR PURPOSES OF THE PROCESSING

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

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

**Data is processed in order to facilitate the selection of staff members that may, if successful, be employed in new or newly vacant posts in the ERCEA.**

**The internal mobility procedure has been developed to improve the career evolution possibilities of ERCEA staff while at the same time optimising the use of the Agency's resources.**

5/ DESCRIPTION OF THE CATEGORY OR CATEGORIES OF DATA SUBJECTS

**ERCEA statutory staff members: Contractual and Temporary Agents.**

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

- **Identification data**: name, e-mail, office telephone number and address, personnel number.
- **Recruitment data**: motivation letter of the candidate, CV (or equivalent information extracted from the data subject's personal file), latest Career Development Report (CDR) if requested by Head of Unit concerned by the open position
- **Data used to evaluate the data subject's personal aspects (ability, efficiency and conduct), based on the above documents**:
  - \*Candidate's education, training and experience to the job and evaluation of the knowledge related to the job.
  - \*Candidate's communication, inter-personal, intellectual / problem-solving and judgement and management / organisational skills and evaluation of the candidate's oral and written language skills.
  - \*Candidate's personal and behavioural qualities, such as motivations and talents for the job (ability to integrate into a team and to work in a multicultural environment) and capacity to self-present her/himself.
- **Health data**: Where a member of staff requests a change of post due to health reasons, depending on the particular case

**Attachments:**

- ERCEA Internal Selection Evaluation Grid
- Template of an Internal Vacancy Notice

7/ INFORMATION TO BE GIVEN TO DATA SUBJECTS

**Data Subjects are informed through the Specific Privacy Statement (SPS) on Internal Mobility which can be found on the ERCEA intranet page dedicated to the mobility policy and is also attached to the ERCEA Mobility Guidelines as Annex III.**

### **ANNEX III**

#### **PERSONAL DATA PROTECTION AND RELEVANT PRIVACY STATEMENTS**

As regards personal data, organisational and technical measures are in place in order to protect them in compliance with R. 45/2001<sup>1</sup>.

In case of **mobility following an internal publication** of a position, data will be processed according to the provisions applicable to the standard selection and recruitment procedures, in line with the pertinent Specific Privacy Statements on "Selection phase" and "Recruitment phase and constitution of personal files" already available both in the intranet and in the external website:

<http://intranet.ercea.cec.eu.int/services/hr/career/Pages/Recruitment.aspx>

<http://erc.europa.eu/index.cfm?fuseaction=page.display&topicID=48>

In case of **reorganisation and redeployment or individual request by the staff member**, personal data are processed in line with the provision pertinent to the management of the "personal file" (see the Specific Privacy Statement on "Recruitment phase and constitution of personal files", available at the above mentioned links).

All personal employment and career details and updates are kept with the "personal file" of the concerned staff member and in SYSPER (where applicable and/or technically possible) which are always accessible to him/her.

In case of **mobility at the request of the management**, data will be processed according to the provisions applicable to the "Evaluation of Staff" procedures, in line with the pertinent Specific Privacy Statement available in the intranet:

<http://intranet.ercea.cec.eu.int/services/hr/career/appraisalReclassification/Pages/home.aspx>

<http://intranet.ercea.cec.eu.int/services/hr/career/Pages/Probation-Period.aspx>

The staff member's rights of rectification and defence are guaranteed by means of dialogues and written contributions.

Whenever **health data** are involved (e.g. individual request by the staff member based on sickness reasons), the applicable provisions are explained by the Specific Privacy Statement on "Health Data" available at the following pages:

<http://intranet.ercea.cec.eu.int/services/hr/Pages/Health.aspx>

<http://erc.europa.eu/index.cfm?fuseaction=page.display&topicID=48>

<sup>1</sup> Regulation (EC) 45/2001 of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data, OJ L 8, 12.1.2001, p. 1

**This Annex contains links to the following Specific Privacy Statements (SPS):**

- 1. In case of mobility following an internal publication of a position, of reorganisation, redeployment or individual requests by the staff member, data is processed according to the standard selection and recruitment procedures, in line with the SPSs on "Selection phase" and**

"Recruitment phase and constitution of personal files" both available in the ERCEA intranet and the external ERC website (see attachment to this notification).

2. In case of mobility at the request of the management, data is processed in line with the SPS on the reclassification of staff, available in the ERCEA intranet and attached to this notification.

3. Whenever health data are involved (e.g. individual request by the staff member based on sickness reasons), the applicable provisions are explained in the Specific Privacy Statement on "Health Data" available in the ERCEA intranet and attached to this notification.

Additionally, the sentence *"Please be informed that your personal data are being dealt with in compliance with Regulation 45/2001. For more information, please check our intranet page HR & Privacy. You are also kindly reminded to use the personal data you receive only for the purposes for which it is transmitted to you."* is included in all emails sent that include personal information on the data subjects.

## 8/ PROCEDURES TO GRANT RIGHTS OF DATA SUBJECTS

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

The staff member's rights of rectification and defence are guaranteed by means of dialogue with the management and written contributions.

In general, if a staff member applying for mobility 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), who is responsible for such processing, by sending an e-mail to the functional mailbox [ERC-RECRUITMENT@ec.europa.eu](mailto:ERC-RECRUITMENT@ec.europa.eu) (for recruitment, selection and personal file related matters), [ERC-CDR@ec.europa.eu](mailto:ERC-CDR@ec.europa.eu) (for Career Development Review related matters) and [ERC-D2@ec.europa.eu](mailto:ERC-D2@ec.europa.eu) (for other matters, including Health Data). If such a request is introduced, Unit D2/Selection 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.

After the closing date of the respective call, the right to rectify personal data is restricted to material errors to ensure equal treatment of all applications.

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 management of the selection process of internal candidates to fill in a vacancy in the frame of the internal mobility policy in accordance with Article 29 (1) of the Staff Regulations, which states that "before filling a vacant post in an institution, the Appointing Authority shall first consider (a) whether a post can be filled by: (i) transfer, or (...)".

**In practice, internal mobility at the ERCEA can be defined as any significant change of job of a jobholder within the same category of employment either by:**

- changing duties while staying in the same unit: in that case there should be a considerable change in the functions and duties which is also reflected in the job description (new job description or some changes to the previous one);**
- moving from one unit to another while keeping the same functions and duties, within the same category of employment.**

**Temporary and Contractual Agents can apply for any position in their function group regardless of their grade. However, for mobility across function groups or from one category of staff to another, internal candidates have to go through an external selection organised by the ERCEA and are thus in competition with external candidates.**

**There are three reasons for internal mobility, for which different procedures apply:**

- Internal voluntary mobility (also called internal transfer of staff);**
- Mobility in the interest of the service;**
- Mandatory mobility (management and sensitive posts).**

### **1. Internal voluntary mobility**

**All vacant posts for internal mobility in the Agency are published on the ERCEA Intranet (<http://intranet.ercea.cec.eu.int/services/hr/career/careerdev/restricted/Pages/Home.aspx>).**

**In addition to the job description, the publication may contain specific additional requirements for the post.**

**Interested staff should introduce their expression of interest using a “common CV based upon the European CV format” accompanied by a “motivation letter” specifying the post and the unit for which they apply and addressed to the Human Resources (HR) Unit at the following functional mailbox: [ERC-SELECTION@ec.europa.eu](mailto:ERC-SELECTION@ec.europa.eu).**

**The HR unit receives the application and sends an acknowledgement of receipt to all internal candidates. This e-mail includes a paragraph on the protection of personal data:**

***"Please be informed that personal data are being dealt with in compliance with Regulation 45/2001. For more information, please check our intranet page HR & Privacy (<http://intranet.ercea.cec.eu.int/services/hr/priv/Pages/default.aspx>)." The Human Resources sector runs an eligibility check on the received applications. Once the check is completed, the HR unit informs by e-mail those candidates who are not eligible and draws up the list of eligible candidates for each vacant post. This list (electronic file/automated processing) is kept by the HR Unit in a restricted folder on the shared drive.***

**The Human Resources unit then sends an e-mail containing the CV and motivation letter of eligible candidates applying for the post to the Head of the Unit in which the post is located. This e-mail is flagged as private (visible only to the addressee) and includes the following confidentiality reminder:**

***"Please be informed that personal data should be dealt with in compliance with Regulation 45/2001. For more information, please check our intranet page HR & Privacy (<http://intranet.ercea.cec.eu.int/services/hr/priv/Pages/default.aspx>). You are also kindly reminded to use the personal data you receive only for the purposes for which it is transmitted to you."***

**All internal candidates considered eligible for the job are invited for an interview with the Head of Unit concerned who can request the presence of other staff members and/or an HR representative during the selection interviews.**

**An evaluation grid is used during the interview, filled in by the Head of Unit (HoU) and then sent in a sealed envelope marked as confidential to the HR unit for filing and information purposes in case HR receives a request for information regarding the criteria used for the**

selection (manual processing). The aim is also to have the HoU think about the reason(s) why s/he excludes a candidate and motivate his/her choice in a fair and transparent manner.

Candidates are informed in writing by email registered in Ares of the outcome of their application, and, if no suitable candidate has been identified, an external selection procedure is launched.

Once the Head of Unit has agreed with the Head of Department on the recruitment of a candidate for an internally published vacancy, s/he informs the HR Unit that begins the administrative follow-up: information to the source unit and organisation of the transfer. The details of the transfer of the selected jobholder have to be agreed between the units or departments concerned through exchange of notes that may include the personal data of the candidate.

## **2. Mobility in the interest of the service**

Under special circumstances the Director, in his capacity of Appointing Authority, may decide on mobility in the interest of the service without prior publication of an internal vacancy notice.

This can happen in the following cases:

### ***a. reorganisation and redeployment***

In the event of redeployment, the Agency can adapt its organisational structure and redeploy staff in order to adjust to the new situation and the new priorities. The main objective of a redeployment exercise is to transfer personnel rapidly and efficiently from one unit to another. After analysing the situation and consulting the Heads of Units/Department(s) concerned, the HR Unit sends a note to the Director via Ares with restricted access explaining the reasoning of the redeployment exercise and a timetable of the transfers. This note includes the following personal data: Full name of staff to be moved, original workplace, future workplace, date of move. Moreover, where applicable it may include a request to adapt the missions and tasks of the different units, to adapt the job description and job objectives, the drafting of a simplified report by the reporting officer, the clarification of the responsibilities and decision making mechanisms.

### ***b. at management request***

The HR Head of Unit may also request the transfer of a staff member where the interest of the service or the interest of the staff member is at stake.

Following a dialogue with the staff member, the Head of the source unit sends a note to the Director via Ares, marked as "staff matters" explaining the situation and suggesting an appropriate solution, in copy to the Head of Department and the HR Unit. The Director takes the decision after having consulted the parties involved. The staff member is informed by a note sent via Ares signed by the Director as AHCC.

### ***c. at the request of the staff member***

A staff member can apply for a move in writing (letter or email) to the Head of the HR Unit explaining the reasons for the request. The HoU HR informs the Director of the request and consults him orally on the possibilities of exchange of staff between teams or units.

## **3. Mandatory mobility**

The rules on mobility for management and sensitive posts are currently being developed by the Agency.

**Following consultation of the Heads of Unit and the Heads of Department concerned (of both the source and receiving units) the Director takes the final decision. The HR Unit informs the staff member that made the request in writing (by email or in letter format) as soon as possible of the outcome of the request.**

**A simplified report will be enclosed to the Career Development review (CDR) that has to be drafted by the Head of the source unit if the jobholder has worked more than 4 months in the Unit. The report is then communicated to the receiving Head of Unit with the HR Unit in copy. The simplified reports are kept in a locked cupboard by the HR staff members in charge of career issues until the following appraisal exercise when it is enclosed with the CDR report and filed in the personal file.**

#### **10/ STORAGE MEDIA OF DATA**

**Documents containing personal data are stored**

**1) electronically – Human Resources set up an electronic dossier containing:**

- a list of published posts and names of eligible applicants for each post, containing the title of the post, the Unit, the number of applications received.**
- a folder for each internal selection containing the CV, motivation letters, interview grids and correspondences with the applicant: acknowledgement of receipt and reply).**
- in case of mobility, the mobility is indicated in Sysper2, and a copy of the note addressed to the staff member is filed in the personal file**

**2) hard copy – the concerned Head of Units might print out CV and motivation letters of applicants and use them during the interview phase. They are nevertheless requested to destroy all copies (of successful and unsuccessful candidates) made once the selection is concluded.**

**3) The Human Resources do not keep any hard copy of the mobility procedures.**

**Excel files are stored on the shared-drive (an electronic storage media) and in Sysper2, an IT application for which the Commission is the Controller.**

**Paper files are stored in the personal file stored in a locked archive room with restricted access. For more detailed information, please see section 9/.**

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

**1. Council Regulation (EC) N° 58/2003 (laying down the statute for executive agencies): Article 11, paragraph 6, and Article 18.**

**2. Commission Decision C(2008) 5694 final of 8 October 2008 (delegating powers to ERCEA)**

- Recital 2 and article 3, respectively: in performing its tasks the Agency is subject to compliance with the statute, the conditions and arrangements relevant to the creation and operation of Executive Agencies as defined in Council Regulation (EC) No 58/2003 of 19 December 2002 (laying down the statute for executive agencies) and with Council Regulation (EEC, Euratom, ECSC) N° 259/683 of 29 February 1968 laying down the Staff**

**Regulations of Officials and the Conditions of Employment of Other Servants of the European Communities.**

**- Under Article 8, paragraph 5, the Agency shall draw up a system of human resources management which ensures the implementation of the tasks delegated to it and complies with the conditions of employment of other servants of the European Communities.**

**3. Articles 4, 7(1) and 29 (1) of the Staff Regulations of officials of the European Communities and the Conditions of employment of other servants of the European Communities (CE, CECA, Euratom) N° 23/2005.**

**4. ERCEA adopted "mobility policy guidelines" approved by the Director and the ERCEA management on 18 October 2011 (Note to the ERCEA Director - Ares(2011)1107841).**

**The processing operation is lawful according to Article 5(a) of Regulation (EC) No 45/2001 in conjunction with Recital 27: The processing is necessary for the performance of a task carried out in the public interest on the basis of Commission Decision 2008/37/EC setting up the ERCEA; in particular, it is necessary for the management and functioning of the Agency.**

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

**Union institutions and/or bodies:**

**- Within the ERCEA: Apart from the authorised staff of the HR Unit, recipients are the ERCEA Director, the Head of Unit/Department of the recruiting unit and the Head of Unit/Department of the source unit.**

**- European Commission: Following a move, data related to job title, job description, objectives and the unit(s) concerned are updated in Sysper2, in order to update the administrative status of the data subject.**

**- 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 but are in any case subject to Directive (EC) 45/46 / Regulation 45/2001, i.e. European Commission, European Court of Auditors, OLAF, EU Courts, Ombudsman etc.).**

**13/ RETENTION POLICY OF (CATEGORIES OF) PERSONAL DATA**

**A transfer according to the Mobility Guidelines may lead to the amendment of the contract of the jobholder and may also have an impact on his/her job description.**

**The contract is considered an integral part of the jobholder's personal file (section career), for which the Common Retention Policy of the Commission – COM(2007)970, applied by analogy in the ERCEA, in section 12.3.7 foresees the following retention period: documents are retained for 8 years after the extinction of all rights of the person concerned and of any dependants, and for at least 120 years after the date of birth of the person concerned.**

**Any CVs and/or cover letters received from internal candidates in the frame of internal selection are kept for five (5) years after the conclusion of the selection procedure as per section 12.3.4.D of the Common Commission Retention List (CRL).**



**The folder for each internal selection is kept for 5 years after the mobility (as of the date of the publication of the open position).**

**After 2 years, personal data of candidates in the list of published posts and names of eligible applicants for each post are removed from the file, which is still kept for historical/statistical purposes.**

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.*

**Not applicable, no further storage of data is foreseen, not even in anonymous form.**

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*):

**Data is processed in order to facilitate the mobility of internal staff members to new or newly vacant posts in the Agency. During the selection, the candidates and their profile are assessed and evaluated based on their motivation, CV, interviews and proven professional experience and capacities, leading to a judgment of the staff member's performance.**

AS FORESEEN IN:

1 Article 27.2.(a)

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

1X 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,*

1 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

**List of attachments:**

- 1. ERCEA Mobility Policy Guidelines, approved by the Director and the ERCEA management on 18 October 2011 (Ares(2011)1107841)**
- 2. Annex I of the ERCEA Mobility Guidelines: ERCEA Internal Selection Evaluation Grid**
- 3. Annex II of the ERCEA Mobility Guidelines: Template of an Internal Vacancy Notice**
- 4. Annex III of the ERCEA Mobility Guidelines: Personal Data Protection and relevant Privacy Statements**
- 5. Specific Privacy Statement on the "Selection phase"**
- 6. Specific Privacy Statement on the "Recruitment phase and constitution of personal files"**
- 7. Specific Privacy Statement on the "Reclassification of staff"**
- 8. Specific Privacy Statement on "Health Data"**
- 9. Declaration of absence of conflict of interest and of confidentiality**

PLACE AND DATE: BRUSSELS, **04/10/2012**

DATA PROTECTION OFFICER: **KOLLOCZEK, NADINE**

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