

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

**NOTIFICATION FOR PRIOR CHECKING**

**DATE OF SUBMISSION: 22/11/2013**

**CASE NUMBER: 2013-1309**

**INSTITUTION: TEN-T EA**

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

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

1/ NAME AND ADDRESS OF THE CONTROLLER

Name: Mr Marcos Roman Parra, Head of Unit, Resources Unit T1  
Address: W910 03/042, Trans-European Transport Network Executive Agency (TEN-T EA),  
Chaussée de Wavre 910, B-1049 Brussels

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

Resources Unit T1, Human Resources

3/ NAME OF THE PROCESSING

Employment termination of TEN-T EA statutory staff

4/ PURPOSE OR PURPOSES OF THE PROCESSING

Personal data is processed in order to manage the end of the period of service of a staff member in the Agency and ensure his /her rights and duties pursuant to the Staff Regulations in the context of termination of his/her employment. The processing is necessary following the initiative of and/or in the interest of the staff member concerned and for the management and functioning of the Agency. Contract can be terminated due to the following reasons: resignation, retirement, end of contract,

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

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

death or invalidity. Termination of contract following the evaluation of probationary periods and disciplinary procedures are subject to separate notifications.

5/ DESCRIPTION OF THE CATEGORY OR CATEGORIES OF DATA SUBJECTS

Staff at Agency terminating employment, namely: Seconded EU Civil Servants, Temporary Agents (TA), Contract Agents (CA), trainees, staff members' family members in the case of death or invalidity only.

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 of the Staff Member (data subject) leaving the Agency, including his/her full name, personnel number, previous grade and function, and private contact details (address, telephone, email,..) after leaving the Agency;
- Data related to career: statutory link, job title, job description of the data subject for the last three years of service at the Agency;
- Pay, allowances and bank accounts data (IBAN number) of the data subject;
- Recruitment and contractual data: dates of start and end of the contract(s)/ desired end of contract (i.e. in case of resignation), reasons for leaving (not compulsory), new destination of the data subject that moves to the European Commission or to another EU institution or body, info about any occupational activity within two years after leaving the Agency that is different from another EU institution/body;
- In case of potential conflict of interest: information on the new occupational activity the data subject will take up, the expected starting date, employment duration and the position in the entity, whether the data subject is employee and /or shareholder in the entity and which pecuniary advantages s/he will receive, whether the entity has any (in)direct commercial, financial or contractual links with an EU institution or body or with the Agency and whether the data subject during his/her employment at the Agency had relations with the entity for which s/he intends to engage;
- Information linked to the invalidity or death of the data subject: decision of the Invalidity Committee (see annexes), death certificate, funeral expenses, details of the notary handling the estate as well as identification (contact details) and financial data of the legitimate heirs.

7/ INFORMATION TO BE GIVEN TO DATA SUBJECTS

Staff members can find information about leaving the Agency as well as on data protection on the Agency's intranet.

A specific privacy statement regarding the processing of personal data in the context of employment termination is available and provided to the staff member concerned: it gives the information referred to in Articles 11 & 12 of Regulation (EC) N°45/2001.

#### 8/ PROCEDURES TO GRANT RIGHTS OF DATA SUBJECTS

Staff members terminating their employment contract with the Agency and wishing to modify, erase or correct data concerning them can contact directly the HR Department or send a message to the functional mailbox: [TENEA-HR-Helpdesk@ec.europa.eu](mailto:TENEA-HR-Helpdesk@ec.europa.eu) .

The staff members also have the right to object to the processing of their personal data on legitimate compelling grounds.

#### 9/ AUTOMATED / MANUAL PROCESSING OPERATION

Termination of contract implies both an automated electronic processing operation as well as a manual one:

- Paper-based processing of data: forms are collected in the data subject's personal file, which is kept in line with the applicable retention period.
- Forms are stored electronically in Sysper2 and /or on the common HR drive of the Agency.
- Correspondence is processed via Ares.

#### 10/ STORAGE MEDIA OF DATA

All data in Sysper 2 are stored electronically (with limited access to the relevant staff of the HR department).

Official communication between the Agency (AIPN, HR) and the staff member concerned are also saved in Ares.

Paper files are stored in locked cupboards.

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

Legal basis:

- Council Regulation (EC) No 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
- Decision C(2007)5282 of 5/XI/2007 delegating powers to the TEN-T EA with a view to the performance of tasks linked to implementation of the community programme for grants in the field of the trans-European transport network, comprising in particular implementation of appropriations entered in the Community budget as amended by Decision C(2008)5538 of 7/X/2008
- Steering Committee Decision SC (2009) 009 of 18 September 2009 on the engagement and use of Temporary Agents
- Steering Committee Decision SC (2012) 020 of 17 July 2012 on the use and engagement of Contract Agents
- Articles 11, 12, 28a, 47, 48, 81, 96 & 119 of the Conditions of Employment of Other Servants of the European Community (CEOS)
- Articles 52, 53, 70, 77, 78, 79, 81, 81a and 83 of the Staff Regulations and Articles 2 – 11, 13-15, 17-29, 40 and 45 of Annex VIII to the Staff Regulations
- Commission Regulation (EC) No 780/2009 of 27 August 2009 laying down provisions for implementing the third subparagraph of Article 28a (2) and the third subparagraph of Article 96(2) of the Conditions of Employment of Other Servants of the European Communities

Grounds of lawfulness:

Regulation (EC) No 45/2001, Article 5(a) in conjunction with Recital 27: the processing is necessary for the performance of tasks carried out in the legitimate exercise of official authority vested in the Community institution or body.

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

- In the Agency: the TEN-T EA Executive Director, Head of Unit Resources, HR Department, the Logistics and IT departments (i.e.: Document Manager Officer, etc.) and the Head of Unit of the staff member quitting service.
- PMO, DG HR & Medical Service of the Commission.

The data may be disclosed to the Legal Team, EU Courts and legal representative, the Legal Service of the Commission, the European Ombudsman and the EDPS in case of judicial or administrative proceedings. It may also be disclosed to enquiring entities such as the Agency's Internal Auditor, the European Court of Auditors and OLAF.

13/ RETENTION POLICY OF (CATEGORIES OF) PERSONAL DATA

The retention policy with regard to the Personal File applies: the file is kept open until the service of the staff member concerned is terminated with a retention period of 8 years from the extinction of all rights of the person concerned and of any dependents and at least 120 years after the date of birth of the person concerned.

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

30 days for all data.

14/ HISTORICAL, STATISTICAL OR SCIENTIFIC PURPOSES

Upon request, the Agency might transfer some anonymous data for future statistical purpose to Commission Services (e.g.: PMO, DG HR).

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

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

AS FORESEEN IN:

☒ **Article 27.2.(b)**

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

☒ **Article 27.2.(d)**

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

Resignation is the formal act of terminating an employment contract by the staff member before its expiration date. The resignation process starts with a written notification addressed to the hierarchy for approval of the Director. In case of non-acceptance of the date of resignation, the Director has 15 working days to formally inform the agent concerned about his opinion and propose a different resignation date.

#### Early retirement:

If a staff member wants to apply for his/her early retirement, s/he must send a written request to the Director. The procedure is the same as for resignation, except that PMO 4/Pensions is informed about the matter and then manages the administrative file for pension rights including transmission of its decision to the staff member (copying the Agency).

#### End of contract:

If the contract of a staff member (Contract Agents or Temporary Agents) comes to its end, i.e. the employment contract is not renewed, the same internal procedure for resignation is applied. In that case and if the agent decides to apply for unemployment allowance PMO 4/Unemployment Allowances is informed and manages the administrative file of the staff member concerned.

#### Death:

As soon as the Agency is informed about the death of a staff member, the Director transmits the sad news to the Agency staff and the HR department informs PMO, updates Sysper 2 and contacts the staff member's family to ask for the necessary documents (copy of the death certificate, funeral expenses to be reimbursed, and the contact details of the notary handling the estate if applicable). HR may ask for the 'Legal Entities and Financial Identification' forms of the legitimate heirs for any future payments.

#### Invalidity:

Invalidity occurs when the Invalidity Committee issues a decision stating that a staff member covered by the Staff Regulations is incapacitated and cannot perform his/her duties any longer. The Invalidity Committee (made up of three doctors) meets either at the request of the person concerned or at the request of the Appointing Authority (Director), if the person's absences over the past three years have reached a total of one (1) year. The Medical Service (Commission DG HR) manages the invalidity procedure but it is the Agency's Director who takes the final decision. PMO 4/Invalidity Allowances will take over the administrative file in order to calculate the invalidity allowance of the staff member. The Medical Service Invalidity procedure is attached (see annexes).

All communication between the medical service and the Director is done via ARES and does not include any medical data. The only personal data processed is the following: Name, Surname and period of the staff member's absence.

#### Procedure for leaving the Agency:

After approval of the resignation or retirement request or before the end of contract, the Human Resources department of the Agency updates Sysper 2, calculates the leave rights, informs the Logistics and IT departments of the Agency, PMO and DG HR (Unit B1 and Security Directorate): in that context, the personal data provided by the HR department of the Agency include: name, surname, personnel number, date of the resignation or date of the end of contract and information in case the staff member is going back to the Commission or another Institution/Agency). Departing staff shall fill out a 'Handover Note' and get stamped a leaving form (see annexes): return eventual office and IT supplies, central archives items, business credit card, items borrowed from the Commission's Central library, badge and car sticker. S/he shall participate in an exit interview,

which is subject to a separate notification. The hand-over file must be returned to the HR department, which then files it in the Personal File (subject to a separate notification) and saves a scanned copy on the HR drive.

PLACE AND DATE: BRUSSELS, 11/11/2013

ACTING DATA PROTECTION OFFICER: CAROLINE MAION

INSTITUTION OR BODY: TRANS-EUROPEAN TRANSPORT NETWORK EXECUTIVE AGENCY