

(To be filled out in the EDPS' office)

NOTIFICATION FOR PRIOR CHECKING

DATE OF SUBMISSION: 23/05/2014

CASE NUMBER: 2014-0563

INSTITUTION: EU-OSHA

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

INFORMATION TO BE GIVEN²

1/ NAME AND ADDRESS OF THE CONTROLLER

EU-OSHA
Santiago de Compostela 12
48009 Bilbao (Spain)

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

Human Resources Section, Resource and Service Centre

3/ NAME OF THE PROCESSING

Annual appraisal, probationary period and management probationary period of the Director of EU-OSHA

4/ PURPOSE OR PURPOSES OF THE PROCESSING

In accordance with Article 34 of the Staff Regulations (SR) and Article 14 of the Conditions of Employment of Other Servants (CEOS) every temporary agent shall serve a probationary period when taking up duties. A report shall be drawn up in order to evaluate the agent during this period. In accordance with Article 43 of the SR and Article 15(2) of the CEOS the ability, the efficiency and the conduct in the service of each temporary agent should be the subject of an annual report. The report shall state whether or not the performance level of the official has been satisfactory. EU-OSHA will conduct an appraisal exercise every calendar year for the Director of the Agency (the "jobholder"). In accordance with Articles 44 and 46 of the Staff Regulations and Articles 16 and 20

¹ OJ L 8, 12.01.2001.

² **Please attach all necessary backup documents**

of the CEOS an agent who is appointed head of unit, director or director-general shall serve a management probationary period when taking up duties and provided that his/her performance has been satisfactory during the first nine months following his/her appointment, the agent shall retroactively benefit from advancement by one step in that grade. A management probationary report shall be drawn up in order to evaluate the agent's management skills. All data are collected in a form (appraisal report form, probationary report form and management probationary period report form) which is kept in the personal file of the jobholder once signed by all parties. Only the jobholder, the reporting officers (four members of the Governing Board) and the appeal assessor (the Chairperson of the Governing Board) have access to the data.

5/ DESCRIPTION OF THE CATEGORY OR CATEGORIES OF DATA SUBJECTS

The data subject is the Director of EU-OSHA in active service. The Director is subject to an assessment of his/her performance as temporary agent during the first nine months in active service (probationary period report), to an assessment of his/her management skills during the first nine months in active service (management probationary period report) and to the assessment of the annual performance (annual appraisal report).

6/ DESCRIPTION OF THE DATA OR CATEGORIES OF DATA

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

The type of data to be processed include: name, last name, personnel number, grade, step, seniority in service, efficiency, competencies and conduct in the service. Special category of data (in the meaning of Article 10 of EC Regulation 45/2001) might be collected - such as trade unions memberships, family situation and health conditions if provided by the data subject in the self-assessment on a voluntary basis.

Probationary period report: The data are collected in a form (annex 1) divided in three parts. During the month which follows the first day of entry into service, the reporting officers meet the probationer in order to comment on his/her job description and to agree on how the objectives and the performance level expected from the probationer will be assessed during the probationary period. At the latest one month before the expiry of the probationary period, a final report shall be drawn up on the efficiency of the probationer, on his/her competencies to perform the duties pertaining to the post and on his/her conduct in the service. In case of need, the probationary period may be extended for a maximum period of six months. The final report is kept in the probationer's personal file in the HR section (locked cupboard).

Management probationary period: The data are collected in a form (annex 2) divided in 3 parts. After the end of the management probationary period (nine months), the reporting officers draw up a draft report. The probationer and the reporting officers hold a formal dialogue and at the latest ten working days after this dialogue the reporting officers can, after consulting the Chairperson of EU-OSHA, either propose a positive appraisal of the management probationary period or propose its extension. After having being notified of the report in writing, the probationer has eight working days to comment on the report. A report is deemed to be accepted in case of absence of reaction of the probationer within the time foreseen. The final report is kept in the jobholder's personal file in the HR section (locked cupboard).

Annual appraisal: The data are collected in a form (annex 3) divided into 7 parts. The reporting officers are designated by the Governing Board in accordance with Article 3 of the draft Governing Board Decision concerning the appraisal of the Director (annex 4) and they represent the different interest groups and the Commission (annex 5). The procedure initiates with the job holder drafting his/her self-assessment. At the latest ten working days after the self-assessment is communicated by the job holder a formal dialogue is held between the reporting officers and the job holder. The formal dialogue covers the fulfilment of the objectives, the implementation of the Agency's work programme and a training plan which takes into account the objectives in relation to the annual work program and the personal development goals. After the formal dialogue has been held, the reporting officers draw up a draft appraisal report which includes appraisal of efficiency, abilities and conduct in the service which shall be consistent with the indications given during the formal dialogue. The draft report is transmitted to the jobholder who is allowed up to five working days to accept the appraisal without adding any comment, accept it after adding some comments in the appropriate

section or refuse to accept it, stating in the appropriate section the reasons for requesting that it is reconsidered. If the jobholder accepts the annual appraisal report, the latter is considered as being final. If the jobholder fails to react within the time limit, he /she shall be deemed to have accepted the report. If the jobholder refuses to accept the appraisal report, the reasoned refusal is transmitted to the appeal assessor (the Chairman of the Governing Board) who has five working days to deliver his/her opinion. After consultation with the Governing Board, the appeal assessor confirms or amends the report. When the appeal assessor departs from the opinion of the Governing Board, he/she must justify his/her decision. The report is then closed and communicated to the jobholder and to the Governing Board. The final report is kept in the jobholder's personal file in the HR section (locked cupboard).

7/ INFORMATION TO BE GIVEN TO DATA SUBJECTS

The Director of EU-OSHA is informed when signing the employment contract of the two probationary reports to be drawn up during the first nine months in active service. He/she is also informed orally about the appraisal to be drawn up annually. An email will be sent by the HR Manager announcing to the data subject and the reporting officers about the launch of the probationary period, management probationary period and appraisal exercise. The email will include a data protection clause whereby the data subject is informed that his/her personal data will be processed in accordance to EC Regulation 45/2001 and the privacy statement will be attached to the email (annex 6).

8/ PROCEDURES TO GRANT RIGHTS OF DATA SUBJECTS (Rights of access, to rectify, to block, to erase, to object)

Upon request, the jobholder may always have access to his/her personal file and receive a copy of the different reports. Once finalised and signed, the final reports cannot be modified. The job holder is provided with a copy of his/her appraisal report and is invited to make comments and to write his/her self-assessment. S/he can therefore amend all administrative data at that time. The data subject can also rectify his/her data by submitting a written request to the controller. Rectification is possible only for factual data - not for evaluation data that are subjective.

9/ AUTOMATED / MANUAL PROCESSING OPERATION

The procedure does not follow any automated processing operation. The reports are sent electronically by email to the job holder and the reporting officers together with data protection information (see annex 6). Once completed they are printed and signed.

10/ STORAGE MEDIA OF DATA

Paper versions of the reports are kept in the personal file of the data subject located in the HR Section (locked cupboard). During the appraisal exercise, the electronic version of the reports may be saved in a password protected folder accessible to the reporting officers.

11/ LEGAL BASIS AND LAWFULNESS OF THE PROCESSING OPERATION

Legal basis:

Annual appraisal report as provided for in Article 43 of the Staff Regulations and Article 15(2) of

the CEOS.

Probationary period report as provided for in Article 34 of the Staff Regulations and Article 14 of the CEOS, and

management appraisal period report as provided for in Articles 44 and 46 of the Staff Regulations and Articles 16 and 20 of the CEOS.

Lawfulness of the processing:

Article 5(a) of Regulation EC 45/2001.

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

Reporting Officers (4 members designated by the Governing Board);

Appeal assessor (Chairperson of the Governing Board);

Members of the Governing Board (only in case of appeal);

Human Resources Manager (for filing purposes only);

Legal Service, Civil Service Tribunal, EDPS, OLAF, European Ombudsman.

13/ RETENTION POLICY OF (CATEGORIES OF) PERSONAL DATA

The retention policy for the reports aligns with the current policy as it is foreseen in the EU-OSHA Document Management Policy for all documents included in the data subjects' personal files (eight years after the extinction of all rights).

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)

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)

N/A

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.(a)

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

☒ Article 27.2.(b)

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

☐ Article 27.2.(c)

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

☐ Article 27.2.(d)

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

☐ Other (general concept in Article 27.1)

17/ COMMENTS

Annex 1: Probationary period report form

Annex 2: Management probationary period report form

Annex 3: Appraisal report form

Annex 4: Draft Governing Board Decision concerning the appraisal of the Director of the European Agency for Safety and Health at Work

Annex 5: Draft Governing Board Decision on the designation of the reporting officers for the appraisal of the Director of the European Agency for Safety and Health at Work

Annex 6: Privacy statement

Annex 7: Declaration of confidentiality and purpose limitation_internal staff

Annex 8: Declaration of confidentiality and purpose limitation_external recipients

PLACE AND DATE: BILBAO, SPAIN. 23/05/2014

DATA PROTECTION OFFICER: MICHAELA SEIFERT

INSTITUTION OR BODY: EU-OSHA