

## (2) B. Data Protection Notice

### Recruitment and Selection

(17 December 2018)

This Data Protection Notice is provided to you in order to explain the policy of the Agency for the Cooperation of Energy Regulators ("**Agency**") regarding your privacy, as well as how your personal information is handled in the context of recruitment and selection proceedings which the Agency may initiate.

### Who is responsible for my personal information?

The Agency is the data controller regarding all personal data processing carried out in the context of recruitment and selection proceedings initiated by the Agency – including selection procedures for Temporary Agents and Contract Agents, as well as for Seconded National Experts and Traineeship Programmes.

To get in touch with the Agency's Data Protection Officer, please contact: [dpo@acer.europa.eu](mailto:dpo@acer.europa.eu).

### What personal information of mine is being collected?

The Agency collects information on candidates or applicants to selection procedures it may initiate, including any Traineeship Programmes at the Agency which may be promoted. Information on other persons, such as family members of those candidates or applicants, may also be collected, when provided by the candidate or applicant. Since this information is related to an identified (or identifiable) individual – meaning, a natural person, and not a company or other legal entity – it is considered as "Personal Data".

The categories of Personal Data which may be processed by the Agency in the context of recruitment and selection proceedings are as follows:

#### (a) **Applicant / Candidate Data**

When you apply to any recruitment or selection proceedings initiated by the Agency – including assignments as a Seconded National Expert or Traineeship Programmes within the Agency – you are asked to provide Personal Data concerning yourself, so that the Agency may identify you and gain further understanding as to your suitability for the position considered. Personal Data requested may include information such as your full name, gender, date of birth, contact details (e-mail address, physical address, phone number), nationality and country of origin. You are also asked to provide your CV (which will contain Personal Data related to your prior experience, education, skills and interests, for instance), as well as a motivation letter (containing Personal Data which you see fit to disclose).

If you are invited for an interview, you will be asked to provide a copy of your passport or national ID to allow for your identification, as well as other documentation related to expenses you may incur in order to attend the interview (such as travel tickets and

boarding passes), for cost reimbursement purposes. We may require further information related to you as necessary to process any reimbursements to be made – please refer to the Agency’s Data Protection Notice on Financial Management for further information.

If the Agency, having assessed your application, decides to extend you an offer letter, acceptance of this offer letter may be subject to providing further Personal Data, in the form of documentation evidencing the information provided in your application – e.g., copies of documents to validate your technical and professional competence (such as diplomas or certificates of prior work experience), your nationality (such as your passport or national ID) and your family situation (such as marriage and birth certificates). You may also be asked to provide other information needed to complete the recruitment or selection process and enter into an agreement with you, such as your photograph, social security and bank account details.

**(b) Special categories of Personal Data**

Some of the information and documentation you are asked to provide after being invited for an interview and/or following acceptance of an offer letter after taking part in recruitment or selection proceedings initiated by the Agency may allow special categories of Personal Data concerning yourself to be inferred. This could include information revealing your racial or ethnic origin (for instance, through your national ID, passport, birth certificate or photographs), political opinions, religious or philosophical beliefs (for instance, through your passport or birth certificate, as well as where you give the Agency information on your position concerning military service, or family situation (for instance, through your marriage certificate). This is not the intention of the Agency when requesting such information and documentation, and therefore the Agency does not use the information and documentation requested for the purpose of inferring these special categories of Personal Data concerning candidates, or process such special categories of Personal Data for any purpose.

Following acceptance of an offer letter extended to a candidate, the candidate will be asked to carry out a pre-employment medical check-up. This check-up will reveal Personal Data concerning the candidate’s health, which will be processed solely for the purposes mentioned under the terms of Article 28(e) of the Staff Regulations of Officials of the European Union (“**Staff Regulations**”) / Article 12(d) of the Conditions of Employment of other Servants of the European Union (“**Conditions of Employment**”) – i.e., to confirm that the candidate is physically fit to perform his/her duties, as required by the position applied for. Note, however, that these checks are carried out by the Medical Service of the European Commission’s Directorate-General for Human Resources and Security (“**DG HR**”), and the Agency is informed only whether the check has been satisfactorily passed, without having access to any Personal Data related to your health.

While candidates to Traineeship Programmes are not required to undertake a pre-employment medical check-up, they will be asked to provide evidence of medical insurance or adherence to a national social security scheme providing medical coverage. This information may also be classified as Personal Data concerning those candidates’ health, and will be processed by the Agency solely as required to comply with the Agency’s legal obligations in the field of EU employment, social security and social protection law.

Candidates may also (inadvertently or not) disclose special categories of Personal Data concerning themselves in certain documents provided to the Agency in the course of recruitment or selection proceedings, such as CVs or motivation letters. The Agency asks that you do not disclose any such special categories of Personal Data to the Agency, unless you believe this to be strictly necessary for the purposes of your candidacy to the Agency to be met.

The Agency only processes any special categories of Personal Data you submit where you provide explicit consent for this, or where another legal basis for processing can be relied on, and in any case only where this is deemed adequate, relevant and necessary in the context of the processing purposes provided in this Data Protection Notice.

**(c) Personal Data related to criminal convictions and offences**

In the course of recruitment or selection proceedings – and particularly after an offer letter is extended to you – you may be asked to provide a certificate of your criminal record. The information within this certificate is processed by the Agency solely for the purposes mentioned under the terms of Article 28(a) and (e) of the Staff Regulations / Article 12(a) and (c) of the Conditions of Employment – i.e., to confirm that the candidate enjoys his/her full rights as a citizen, and to assess the candidate's suitability for the performance of his/her duties.

**(d) Personal Data related to other persons**

In the course of recruitment or selection proceedings – and particularly after an offer letter is extended to you – you may be asked to provide information on your family situation, as well as documentation evidencing this (such as marriage and birth certificates). This information and documentation may contain Personal Data related to your family members.

Additionally, candidates may (inadvertently or not) disclose Personal Data concerning other persons in other documents provided to the Agency in the course of recruitment or selection proceedings, such as CVs or motivation letters.

Whenever you decide to share Personal Data related to other individuals with the Agency, you will be considered an independent data controller regarding those Personal Data. This means that you will be held responsible for that decision – as such, you may be held liable for any complaints, claims or demands for compensation which may be brought against the Agency, where those Personal Data have been unlawfully shared with the Agency.

As such, in these situations, you must make sure that you are able to share these Personal Data with the Agency lawfully, under the applicable law (e.g., because the other individuals have consented, because you are subjected to a legal obligation to provide those Personal Data to the Agency, because these Personal Data are shared in the performance of a task in the public interest, etc.).

This may be the case, for example, where you include Personal Data related to other persons which are to provide professional references on your behalf – it is important that you ask for those persons' consent prior to disclosing Personal Data related to

them to the Agency. This is also the case regarding Personal Data which you share on your family members – please confirm with those persons (where they are of age), or with the parents / guardians of those persons (where you are not the parent or guardian in question), that you may share these Personal Data with the Agency for the purpose of applying to a position.

## Why is the Agency using these Personal Data?

The Agency uses the Personal Data mentioned above for one or more of the following purposes:

### (a) **Recruitment / Selection**

To allow the Agency to receive, store and analyse all applications received in connection with recruitment or selection proceedings initiated by the Agency, including activities such as verifying the identity, qualifications and competence of candidates, assessing the applications received and extending offer letters to candidates deemed most suitable for the position concerned.

- If you wish to apply for a position, assignment as a Seconded National Expert or Traineeship Programme within the Agency, it is mandatory to provide the Personal Data requested by the Agency, as listed in information made available on the open position or Traineeship Programme; without these Personal Data, the Agency will not be able to verify your identity or whether your application meets the minimum requirements for the recruitment or selection proceedings concerned and, as such, the Agency will not be able to process your application.

### (b) **Reserve Lists**

To allow the Agency to set up and manage reserve lists, including candidates to which an offer letter is not extended for a given position / assignment / Traineeship Programme, but which show potential as suitable candidates for other current or future positions / assignments / Programmes.

- It is not mandatory for you to provide your Personal Data to the Agency for this purpose; however, if you choose not to (e.g., by asking to be removed from any reserve lists, or preemptively declaring that you do not wish to be included in a reserve list), then the Agency will not be able to consider you as a candidate for any other positions or Traineeship Programmes than the one you applied for, nor further to consider you for the position or Programme you applied for (should an offer letter not be extended to you when you first apply).

### (c) **Compliance**

For compliance with laws which impose upon the Agency the collection and/or further processing of certain kinds of Personal Data.

- When you provide any Personal Data to the Agency, the Agency must process it in accordance with the applicable law, which may include retaining and reporting your Personal Data to official authorities for compliance with its legal obligations.

All Personal Data processed by the Agency may be included in periodic backups carried out to ensure the availability of information stored on the Agency's IT systems, and may further be processed to ensure the appropriate handling of security incidents related to those systems, as well as the Agency's compliance with its legal obligations regarding the processing of Personal Data (e.g., related to management of personal data breaches).

## Why can the Agency use this Personal Data?

The legal bases which the Agency relies on to process these Personal Data, according to the purposes identified above, is as follows:

### (a) **Recruitment / Selection and Reserve Lists**

Processing for these purposes is needed to allow the Agency to organise its own selection procedures, regarding Temporary Agents, Contract Agents, Seconded National Experts and Trainees.

These selection procedures are necessary for the management and functioning of the Agency, and draw their legal justification from Title III, Chapter 1 (Arts. 27 to 34) of the Staff Regulations, as well as Articles 12 to 15 and 82 to 84 of the Conditions of Employment<sup>1</sup>. In particular, regarding Seconded National Experts, Decision AB No. 02/2011 of the Agency's Administrative Board lays down Rules on Secondment of National Experts to the Agency.

### (b) **Compliance**

Processing for this purpose is needed for the Agency to comply with the legal obligations it is subjected to, under EU law.

The inclusion of all Personal Data stored by the Agency in its IT systems in periodic backups, as well as all processing carried out to ensure the appropriate handling of security incidents related to those systems, is deemed necessary in order to ensure the proper management and functioning of the Agency and, as such, necessary in order to perform a task in the public interest.

## Who can see your Personal Data, and who will they be shared with?

Your Personal Data may be shared with the following list of persons / entities ("**Recipients**"):

- Other Union institutions or bodies, as well as, on occasion, companies, entities or professional firms, which are engaged by the Agency in order to provide services related to the management of recruitment or selection proceedings and technical maintenance / assistance, as well as operational security of systems used to store Personal Data processed in connection with those proceedings, which typically act as data processors on behalf of the Agency.

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<sup>1</sup> On this note, see the European Data Protection Supervisor's [Guidelines Concerning the Processing Operations in the field of Staff Recruitment](#), pp. 1-2.

These entities, when engaged by the Agency, are bound to confidentiality regarding any Personal Data they are given access to, and have access to Personal Data only to the extent strictly required for them to provide those services;

- Persons authorised by the Agency to process Personal Data needed to carry out activities strictly related to the purposes described above, who have undertaken an obligation of confidentiality or are subject to an appropriate legal obligation of confidentiality (e.g., staff members of the Agency);
- Public entities, bodies or authorities, including other national or Union institutions or bodies, to which your Personal Data may be disclosed, in accordance with Union or Member State law, or with binding orders from those entities, bodies or authorities.

The Agency will not transfer your Personal Data outside of the EU.

For more information on transfers of Personal Data carried out by the Agency for these purposes, please contact the Agency's Data Protection Officer, at: [dpo@acer.europa.eu](mailto:dpo@acer.europa.eu).

## How long do we keep your data?

### (a) **Accepted / Selected Candidates**

Personal Data regarding candidates which are accepted to the position are stored in their respective personal files at the Agency, throughout the period of employment or traineeship at the Agency:

- Temporary Agent, Contract Agent and Seconded National Expert candidates these Personal Data are retained for a maximum period of 10 years as of termination of the secondment, employment or the date of the last pension payment sent;
- Trainee candidates – these Personal Data are retained for a maximum period of 5 years as of termination of the Traineeship Programme.

### (b) **Candidates placed on Reserve Lists**

Personal Data regarding candidates which are processed for **Reserve Lists** purposes are kept for a maximum period of 2 years after the expiry of validity of the reserve list(s) in which they are included.

### (c) **Candidates which are not accepted / selected**

Personal Data regarding candidates which are not accepted, selected or placed on **Reserve Lists**, are kept:

- Temporary Agent, Contract Agent and Seconded National Expert candidates – for a maximum of 2 years after the final outcome of the selection procedure has been approved;
- Trainee candidates – for a maximum of 2 years after the final outcome of the selection procedure has been approved if, during the procedure, the candidate

was invited to an interview; in all other cases, for a maximum of 3 months after the final outcome of the selection procedure has been approved.

In any case, the Agency will not retain any copies of criminal records (or certificates of criminal records) provided in the course of recruitment or selection proceedings. These documents will be assessed to confirm the suitability of the candidates, after which they will be returned to the candidates.

Please note that, in any case, the Agency may continue to store Personal Data for a longer period, as may be necessary for internal auditing and security purposes (including within periodic backups carried out) and, in general, to protect the Agency's interests related to potential liability related to this processing.

For more information on the applicable retention periods, please contact the Agency's Data Protection Officer, at: [dpo@acer.europa.eu](mailto:dpo@acer.europa.eu).

## What are my rights? How can I exercise them?

As a data subject, you are entitled, in general, to exercise the following rights before the Agency:

- Access your Personal Data being processed by the Agency (and/or obtain a copy of those Personal Data), as well as information on the processing of your Personal Data;
- Correct or update your Personal Data being processed by the Agency, where it may be inaccurate or incomplete;
- Request the erasure of your Personal Data being processed by the Agency, where you feel that the processing is unnecessary or otherwise unlawful;
- Request the blocking of your Personal Data, where you feel that the Personal Data processed is inaccurate, unnecessary or unlawfully processed, or where you have objected to the processing;
- Exercise your right to portability: the right to obtain a copy of your Personal Data provided to the Agency, in a structured, commonly-used and machine-readable format, as well as the transmission of that Personal Data to another data controller.

Note that, regarding the **right to rectification**, you are entitled to exercise this right related to your identification data – e.g., name and surname, date of birth, gender, contact details – at any time during the course of the recruitment / selection procedure. However, regarding data related to admissibility criteria – e.g., languages, education, professional experience, citizenship –, rectifications requested after the closing date for candidates' submissions of their applications will not be considered.

You may also have a right to **object to the processing of your Personal Data**, based on relevant grounds related to your particular situation, which you believe must prevent the Agency from processing your Personal Data for a given purpose. This right may apply whenever the Agency relies on the need to perform a task in the public interest as the legal basis for a given processing purpose, e.g., **Recruitment / Selection, Reserve List** and others (see above – [Why can the Agency use these Personal Data?](#)).

To exercise any of the abovementioned rights, you may send a written request to the Agency, at [hr-info@acer.europa.eu](mailto:hr-info@acer.europa.eu).

Please note that the above rights may not apply, or may not apply in full, as there may be applicable legal exemptions or restrictions to those rights. This will be assessed by the Agency on a case-by-case basis; if such an exemption or restriction is found to be applicable, you will be informed of the Agency's main reasoning for this.

In any case, please note that, as a data subject, you are entitled to file a complaint with the European Data Protection Supervisor, if you believe that the processing of your Personal Data carried out by the Agency is unlawful (for more information, please see the EDPS' website, at [https://edps.europa.eu/edps-homepage\\_en](https://edps.europa.eu/edps-homepage_en)). You will suffer no prejudice on account of any such complaints lodged.