

(To be filled out in the EDPS' office)
REGISTER NUMBER: 1381

(ONLY IN CASE OF PRIOR CHECKING BY EDPS: To be filled out in the EDPS' office)

NOTIFICATION FOR PRIOR CHECKING

DATE OF SUBMISSION: 16/06/2016

CASE NUMBER: 2016-0535

INSTITUTION: F4E

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

NOTIFICATION²

1/ NAME AND ADDRESS OF THE CONTROLLER

The European Joint Undertaking for ITER and the Development of Fusion for Energy (F4E)
C./ Josep Pla, n° 2,
Torres Diagonal Litoral,
Edificio B3,
08019 Barcelona, Spain

Controller: Hans Jahreiss, Head of Administration

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

Human Resources Unit

3/ NAME OF THE PROCESSING

¹ OJ L 8, 12.01.2001.

² **Please attach all necessary backup documents**

360° feedback exercise for F4E manager

4/ PURPOSE AND DESCRIPTION OF THE PROCESSING

Purpose of the process:

The 360 degree feedback is an exercise managed by the HR Unit allowing managers to receive feedback from various sources (subordinates, peers, superiors) concerning their strengths and weaknesses in a wide range of competency areas, on the basis of a survey sent and completed by themselves, as well as by a sample of respondents (from the categories of subordinates, peers and superiors of the manager concerned), hereinafter called “contributors”.

The tool aims to help participants learn about their professional and managerial skills and enhance their own personal development in a professional context. It follows that 360 degree feedback constitutes a professional development tool, formally distinct and disconnected from the performance appraisal procedure.

Participation in this exercise by the manager and the contributors who receive the questionnaire (subordinates, peers and superiors) is entirely voluntary and no negative consequences derive from either participating or not participating. Managers sign a consent form for each 360° exercise (see Annex II). The consent regarding one exercise is without prejudice to future exercises, for which the consent will be requested again.

The exercise also provides a picture of the management culture within F4E.

Description of the process:

The assessment is based on an online questionnaire comprising of several sections corresponding to a series of key management competencies which have been selected by the Head of HR as the most valuable to the organisation. The data collected in the questionnaire are numerical data (scores given to each statement) and data in the form of open comments or suggestions that the contributors wish to make. These comments can reflect the opinions that the contributors have about the manager concerned, on a specific matter, or give details or reasoning on the score given to him/her. All comments made by the contributors will remain exactly as written by the respondent in their feedback and no modifications to these comments will be made. This is clearly stated in the information section of the questionnaire so that respondents are aware of this.

A sample of potential contributors is established by the external provider according to the following modalities:

- a) from the category of staff: all staff who meet the following conditions: be hierarchically dependent on the manager concerned and/or have a direct working relationship with the latter;
- b) from the category of superiors: all his/her hierarchical superiors;
- c) from the category of peers: a minimum of 5 peers with a similar level of responsibility who have a working relationship with the jobholder

In all cases the manager must have been in the current position for at least 6 months in order for the respondents to be able to properly evaluate the manager.

Once the external provider receives the database with the raw data, they conduct their analysis, prepare individual feedback report (to the attention to each manager) and organise face to face debriefing sessions with the managers evaluated to be carried out by a qualified debriefer employed by the external provider.

The report will consist of the quantitative analysis of data and the open comments (if any). The external provider will do a screening of the comments to ensure that any offensive words/phrases are removed.

In addition to the individual report, once all of the managers have participated to the exercise, a group report including aggregated compiled results for all of the managers who have participated will be provided by the external provider.

The group report preserves the anonymity of the managers who participated in the exercise and no open comments from the individual report are included.

5/ DESCRIPTION OF THE CATEGORY OR CATEGORIES OF DATA SUBJECTS

The different categories of persons potentially affected by the processing of data within the 360 degree feedback are:

1. Managers subject to evaluation: Director/Head of Department/Head of Unit / Project Team
Manager/Group Leader/Team leader, (the assessees)
2. Contributors: subordinates, peers and superiors

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

Personal data processed as part of the 360 degree feedback exercise are 1) full name, position, e-mail address, language and gender of the manager concerned; 2) full name, category (subordinates, peers and or superior), gender, e-mail address of the contributors; 3) assessment on the managerial skills of the manager concerned produced by the manager himself / herself and by the contributors; 4) opinions of the contributors reflected as open comments or suggestions on the managerial skills of the manager concerned.

Consent Forms:

Name, surname, date, signature, consent to take part in the exercise on voluntary basis, results being used for statistical purposes, information being looked at by the recipients mentioned under 12.

Individual report:

Based on the individual results of the 360° the external provider establishes an individual feedback report for each manager which summarises the individual outcome of the assessment (quantitatively and qualitatively).

This individual feedback report also reflects the results by competency areas and by statements within the competency area. On this basis the external provider draws a series of operational conclusions (including, where appropriate, the highlighting of diverging perceptions for a single issue between categories of respondents).

Group report:

The group report to the 360° exercise includes anonymous aggregated compiled results for all of the managers who have participated and will only show the overall quantitative results for the group of participants. No open comments from the individual reports are included.

When the number of contributions received in the subordinates or peers respondents category (less than 3 per category) is insufficient to ensure statistical relevance and/or to guarantee the confidential and anonymous character of the individual contributions, the summary “group report” shall only present aggregated averages without making distinction according to the various categories of contributors.

7/ INFORMATION TO BE GIVEN TO DATA SUBJECTS

A specific Privacy Notice is published in the F4E intranet, providing staff members with the information required under Articles 11 and 12 of the Regulation (EC) 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies on the free movement of such data.

See attached in Annex I.

Declaration on confidentiality / data protection of the external provider is accessible from the online platform to complete the questionnaire. This information is available for all those participating to the assessment (the manager themselves, peers, hierarchy)

See attached in Annex II

8/ PROCEDURES TO GRANT RIGHTS OF DATA SUBJECTS

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

Right of access: according to Article 13 of Regulation 45/2001, the data subjects have the right of access to their data being processed by contacting the Fusion for Energy Data Controller.

Right of rectification: according to Article 14 of Regulation 45/2001, the data subjects have also a right to obtain the rectification of their data that are inaccurate or incomplete, without delay by contacting the Data Controller at any time.

Right of blocking: according to Article 15 of Regulation 45/2001, the data subjects have also the right to obtain from Data Controller blocking of their data when:

- They contest the accuracy of the data;
- The controller no longer needs them but they need to be maintained for purposes of proof;
- The processing is unlawful and the data subject requests blocking instead of erasure.

Personal data blocked shall only be processed for the purpose of proof (with the consent of the data subject) or for the protection of the rights of a third party.

Right of erasure: according to Article 16 of Regulation 45/2001, the data subjects can request the cancellation of their personal data if they consider that they are subject to an unlawful processing.

Right to object: according to Article 18 of Regulation 45/2001n the data subjects can object the processing of their personal data unless the processing is needed for the purposes of Article 5b) and d) of Regulation 45/2001:

- On legitimate grounds relating to their particular situation
- Before their personal data are disclosed to third parties.

Limitation:

Article 20(1) of Regulation 45/2001 states that the data controller may restrict access to the information/documents to safeguard:

- (a) the prevention, investigation, detection and prosecution of criminal offences;
- (b) any important financial or economic interest of the Member States or the Union;
- (c) the protection of the data subject or the rights of freedoms of others;
- (d) the national security, public security or defence of the Member States;
- (e) the monitoring, inspection or regulatory task connected with the exercise of official authority in cases referred to in (a) and (b).

Common steps for the exercise of the above mentioned rights: Any request from a data subject concerning the rights above described should be addressed to the Controller through the following contact e-mail address: Resources-Controller@f4e.europa.eu

Apart from the right to obtain the rectification of inaccurate and incomplete data without delay, the Controller shall provide an answer to the data subject concerning his/her request on the exercise of his/her rights, as defined above, within 10 working days. Any contestation by the data subject to the Controller's reply shall be submitted within 10 working days of the response received and the Controller shall have another 10 working days to provide a replica revising his previous decision or confirming it.

The data subject may put in place the procedure established in article 90 of the Staff Regulations to contest any action of the data controller related to his/her rights.

All data subjects have also right of recourse at any time to the European Data Protection Supervisor: EDPS@edps.europa.eu. The EDPS receives complaints from EU staff members as well as from other people who feel that their personal data have been mishandled by a European institution or body. If a complaint is admissible, the EDPS usually carries out an inquiry. The findings are communicated to the complainant, and necessary measures are adopted.

9/ AUTOMATED / MANUAL PROCESSING OPERATION

The HR Officer responsible for the exercise prepares an excel table with the list of contributors and sends it to the external provider. The external provider inputs this information manually from the excel table into their system. They then launch the questionnaire automatically. Once all of the

replies have been received, they generate the individual feedback report from their system automatically.

The external provider sends this individual feedback report by e-mail to the manager assessed, and the Head of the HR Unit for the career development of the manager.

Group report is generated once all the managers have participated in the exercise and sent by the external provider to the Head of HR by e-mail.

10/ STORAGE MEDIA OF DATA

The individual reports and group report are stored in a dedicated F4E repository to which only Director, Head of Department, Head of Unit, Head of HR, HR responsible Officer, The Direct Superior of the manager participant, the manager assessed will have access to.

Consent forms are stored in the same repository.

Specific measures related to security are detailed under pt. 18 below.

11/ LEGAL BASIS AND LAWFULNESS OF THE PROCESSING OPERATION

(i) Legal basis (i.e. Staff Regulations)

Council Decision of 27 March 2007 establishing the European Joint Undertaking for ITER and the Development of Fusion Energy and conferring advantages upon it - 2007/198/Euratom, as last amended by Council Decision of 10th February (2015/224 Euratom)³, in particular Article 6 thereof;

Statutes annexed to the *Council Decision* (Euratom) No 198/2007 establishing the European Joint Undertaking for ITER and the Development of Fusion Energy and conferring advantages upon it, as last amended on 10th February 2015, in particular Article 10 thereof;

Staff Regulations of Officials (SR) and the Conditions of Employment of Other Servants of the European Communities (CEOS) in particular Article 24a [*The Union shall facilitate such further training and instruction for officials as is compatible with the proper functions of the service and is in accordance with its own interest. Such training and instruction shall be taken into account for purposes of promotion in their careers.*]

F4E Integrated Management System Standards (F4E_D_24LQJM) of 25/07/2012, standard n°4 on Human Resources and learning and development needs

(ii) Lawfulness Personal data may be processed only if:

³ Council Decision 2015/224 of 10th February 2015, OJ L 37, 13.2.2015, p 8.

- ☒ Processing is necessary for the performance of F4E tasks on the basis of the F4E founding instrument or other legal instrument adopted on the basis thereof or in the legitimate exercise of official authority vested in F4E or in a third party to whom the data are disclosed (Regulation (EC) 45/2001, Article 5(a)), or
- ☐ Processing is necessary for compliance with a legal obligation to which the controller is subject (Regulation (EC) 45/2001, Article 5(b)), or
- ☐ Processing is necessary for the performance of a contract to which the data subject is party or in order to take steps at the request of the data subject prior to entering into a contract (Regulation 45/2001, Article 5(c)), or
- ☒ The data subject has unambiguously given his or her consent (Regulation 45/2001, Article 5(d)), (this is done explicitly with a consent form which is signed prior to the participation in the exercise) or
- ☐ Processing is necessary in order to protect the vital interests of the data subject (Regulation 45/2001, Article 5(e)).

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

Consent Forms:

External Processors:

The external provider, bound by the statutory obligation of confidentiality, and in charge of gathering and processing the data;

External provider in charge of analysing and reporting on the data. F4E is aware of the confidentiality convention put in place by the provider with regards to confidentiality and security of personal data.

External debriefer from the external provider will analyse the results of the report and will debrief the jobholder on the results.

External Coach in case the manager decides that s/he voluntarily wants to share the data with him/her for professional development purpose in order to make sure that the manager agreed to take part in the exercise.

Internal Processors:

Director

Head of Department only to the reports of managers who participated in the exercise from his/her department

Head of Unit

Head of HR

HR responsible Officer

The Direct Superior of the manager participant

Manager participant. The manager concerned has access to the report prepared by the external provider but ignores the identity of the contributors that have completed the survey.

Questionnaires:

External Processors:

The external provider has access to the data contained in the questionnaires completed by the managers concerned and by the contributors. The data in the questionnaires have no reference to the identity of the contributors, but they indicate the category of each respondent that makes the contributions (subordinates, peers, superiors). Contributors ignore the identity and the contents of the contributions made by others.

Internal Processors:

There are no internal processors for Questionnaires.

Individual Report:

External Processors:

The external provider, bound by the statutory obligation of confidentiality, and in charge of gathering and processing the data;

External provider in charge of analysing and reporting on the data. F4E is aware of the confidentiality convention put in place by the provider with regards to confidentiality and security of personal data.

External debriefer from the external provider will analyse the results of the report and will debrief the jobholder on the results.

External Coach in case the manager decides that s/he voluntarily wants to share the data with him/her for professional development purpose.

Internal Processors:

To assist professional development of the manager the following persons will have the access to the Individual report:

Director

Head of Department only to the reports of managers who participated in the exercise from his/her department

Head of Unit

Head of HR

HR responsible Officer

The Direct Superior of the manager participant

Manager participant. The manager concerned has access to the report prepared by the external provider but ignores the identity of the contributors that have completed the survey.

In principle, individual reports are not disclosed to F4E staff members. Should this be the case, it can only be done providing each manager agrees to do so. Manager's decision should be recorded in writing and the manager has the possibility to refuse without any negative consequences.

Group Report:

External Processors:

The external provider, bound by the statutory obligation of confidentiality, and in charge of gathering and processing the data;

External provider in charge of analysing and reporting on the data. F4E is aware of the confidentiality convention put in place by the provider with regards to confidentiality and security of personal data.

External debriefer from the external provider will analyse the results of the report and will debrief the jobholder on the results.

External coach: the data from the group report may be used for coaching purposes by any external coach working for leadership development programme at F4E.

Internal Processors:

To assist professional development of the manager the following persons will have the access to the report:

Director

Head of Department only to the reports of managers who participated in the exercise from his/her department

Head of Unit

Head of HR

HR responsible Officer

The Direct Superior of the manager participant

Manager participant

13/ RETENTION POLICY OF (CATEGORIES OF) PERSONAL DATA

The electronic files containing the individual reports and the answers to the surveys are retained by F4E as long as managers remain in the management role so as to allow the comparison of their development over time.

The data generated by the external provider is kept until they receive instructions from F4E to delete this information.

F4E will contact the external provider after a period of 2 years following the completion of the exercise to request the deletion of the reports from their server unless F4E continues utilising the services of the same provider.

No group report contains personal data.

Consent forms will be stored as long as individual reports.

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

The Controller shall execute any request for blocking or erasure as soon as possible and in any case not later than within 10 working days from the day the data subject's request reached F4E.

He/she will notify this circumstance to the data subject by the same means of communications that the data subject chose to address him.

In the case the data subject contests the accuracy of his/her data, the relevant data are blocked for a period necessary for verifying the accuracy and completeness of the data.

(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.

After deletion of the electronic data upon expiry of the retention periods and according to the modalities indicated under point 13 above, only a limited set of information will be stored for historical and statistical purposes by HR Unit. In this framework, for each 360 degree feedback exercise, the following data will be retained, for 5 years following the departure of the manager from F4E:

1. The number of participants to each round of the 360 degree assessment exercise
2. Their department and grade

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

N/A

16/ THE PROCESSING OPERATION IS LIKELY TO PRESENT A SPECIFIC RISK TO THE RIGHTS AND FREEDOMS OF THE DATA SUBJECTS, WHICH JUSTIFIES PRIOR CHECKING BY THE EDPS

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, including, his or her ability, efficiency and conduct;

↑ 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 of Article 27.1, i.e. if the processing operation is likely to present a specific risk to the rights and freedoms of the data subject by virtue of their nature, their scope or their purposes)

17/ COMMENTS

Managers participating to the exercise will be requested to sign a consent form for the exercise. This can be found in Annex II.

PLACE AND DATE:

DATA PROTECTION OFFICER:

INSTITUTION OR BODY:

ANNEXES:

ANNEX I – SPECIFIC PRIVACY NOTICE

Annex II – CONSENT FORM,

Annex III - DATA PROTECTION STATEMENTS FROM THE PROVIDERS