

(To be filled out in the EDPS' office)

REGISTER NUMBER: 1074

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

NOTIFICATION FOR PRIOR CHECKING

DATE OF SUBMISSION: 26/08/2013

CASE NUMBER: 2013-0759

INSTITUTION: EUROPEAN JOINT UNDERTAKING FOR ITER AND THE DEVELOPMENT OF FUSION ENERGY

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

INFORMATION TO BE GIVEN²

1/ NAME AND ADDRESS OF THE CONTROLLER:

Controller: Hans Jahreiss, Head of Administration

The European Joint Undertaking for ITER and the Development of Fusion Energy
c/ Josep Pla no. 2
Torres Diagonal Litoral
Edificio B3
08019 Barcelona
Spain

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

Administration Department,
Contracts and Procurement Unit

3/ NAME OF THE PROCESSING

Establishment of lists of potential Fusion for Energy (hereinafter – “F4E”) experts, their selection and the signing and follow-up of the contracts with individual experts.

¹ OJ L 8, 12.01.2001.

² **Please attach all necessary backup documents**

4/ PURPOSE OR PURPOSES OF THE PROCESSING

Calls for expression of interest with the aim of establishing lists of experts (in form of an online database), who can be selected to sign a contract with F4E for the provision of specific expertise.

5/ DESCRIPTION OF THE CATEGORY OR CATEGORIES OF DATA SUBJECTS

Persons who register online following the publication of a call for expression of interest for the establishment of a list of prospective individual experts and who can be selected to sign a contract with F4E for the provision of specific expertise.

There are Calls for expression of interest for experts published on F4E website in two areas:

I. Technical experts:

Call for expression of interest for the establishment of a list of prospective individual experts to provide **technical expertise** to 'Fusion for Energy' was published on F4E website and in the Official Journal on 4 July 2008 (2008/C 169/05); The list following this Call expires 3th of July 2013 and therefore no new contracts with experts from this list can be signed any longer after that date.

Existing expert contracts are still being followed up according to this procedure.

II. Adjudicators:

Call for expression of interest for the establishment of a list of prospective individual experts to act as **adjudicators** for disputes arising from Operational Contracts of Fusion for Energy (F4E D_082626) was published on F4E website on 31 March 2010. The list established on the basis of this Call is valid until 30th March 2015.

The files of adjudicators experts, thus the processing of their personal data, are dealt with in the same manner as the ones for technical experts.

For details see: <http://www.fusionforenergy.europa.eu/careers/workingasexpert.aspx>

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

At the registration to the list stage:

- Personal and contact information – information related to identity, gender, date of birth, town and country of birth, nationality, passport number, address, contact details.
- CV which may contain information related to identity, nationality, gender, contact details, professional experience, education and training, personal skills and competences, languages, social skills, organisation skills, technical skills, computer skills, artistic skills, driving skills.
- Photo, not requested, sometimes provided by applicants spontaneously.

All the information is provided directly by the applicant through the application form online (<https://experts.f4e.europa.eu/Submissions.aspx>) and goes automatically to the online database, mentioned under point 4 (see the print screen of Application Form attached in Annex III).

At the selection stage:

The same information as at the registration stage.

At the signature of the contract stage:

- CV which may contain information related to identity, nationality, gender, contact details, professional experience, education and training, personal skills and competences, languages, social skills, organisation skills, technical skills, computer skills, artistic skills, driving skills.
- Legal Entities Form and Financial Identification Form including bank statement if no bank stamp can be obtained.
- Copy of the identity card or passport.

At the payment of the fees and reimbursement of the travel expenditure stage:

- request for payment.
- supporting travel documents.
- calendar daily worked.

At all stages no special categories of data, as defined in Art. 10 of the Regulation 45/2001, are processed.

7/ INFORMATION TO BE GIVEN TO DATA SUBJECTS

The Call for expression of interest for the establishment of a list of prospective **individual experts to provide expertise** to ‘Fusion for Energy’ was published on F4E website and in the (OJ 2008/C 169/05) on 4 July 2008 and contains the following information regarding Art. 11 the Regulation 45/2001(“the Regulation”):

“Any personal data provided by the individual expert shall be processed pursuant to European Regulation related to personal data protection, in particular Regulation (EC) No 45/2001 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movements of such data. It shall be processed solely for the purpose ‘to manage application’s in view of selection by F4E’. The expert shall have the right of access to his personal data and the right to rectify any such data that is inaccurate or incomplete. Should the expert have any queries regarding the processing of his/her personal data, he shall address them to the Data Protection Officer of Fusion for Energy.”

The Call for expression of interest for the establishment of a list of prospective **individual experts to act as adjudicators** for disputes arising from Operational Contracts of Fusion for Energy (F4E D_082626) was published on 31st March 2010 on F4E website and informs the concerned individual experts as follows:

“Any personal data provided by the expert shall be processed by Fusion for Energy pursuant to Regulation (EU) No 45/2001 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movements of such data. It shall be processed solely for the purposes of managing the application in view of the selection by Fusion for Energy, without prejudice to possible transmission to its internal audit services, to the European Court of Auditors, to the Financial Irregularities Panel and/or to the European Anti-Fraud Office (OLAF) for the purposes of safeguarding the financial interests of the European Union. The expert shall have the right of access to his personal data and the right to rectify any such data that is inaccurate or incomplete. Should the expert have any queries concerning the processing of his personal data, he shall address them to the Fusion for Energy controller responsible for processing the personal data. The expert shall have right of recourse at any time to the European Data Protection Supervisor.”

See attached in Annex I a) and b).

[A Specific more detailed Privacy Notice is published on the intranet , see attached 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 F4E controller responsible for processing the personal data.

Right of rectification: according to Article 14 of Regulation 45/2001, the data subjects have also a right to rectify their data that are inaccurate or incomplete 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.

According to Article 20(1)(c) of Regulation 45/2001 the Data Controller may restrict access to the information/documents to safeguard:

- the prevention, investigation, detection and prosecution of criminal offences;
- any important financial or economic interest of the Member States;
- the protection of the data subject or the rights of freedoms of others;
- the national security, public security or defence of the Member States;
- the monitoring, inspection or regulatory task connected with the exercise of official authority.

Common steps for the exercise of any 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 addresses:

Resources-Controller@f4e.europa.eu

[DataProtectionOfficer@f4e.europa.eu](mailto>DataProtectionOfficer@f4e.europa.eu)

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.

In case of dispute, the competent forum to lodge an appeal is that of the Civil Service Tribunal, Rue du Fort Niedergrünwald, L-2925 Luxembourg.

9/ AUTOMATED / MANUAL PROCESSING OPERATION

Applications by the candidates following the calls for expression of interest are done online via F4E website. The information on personal, contact data and CV's (see section 6 above for the details of what is requested) provided by the potential experts are automatically exported by the system into the online experts list - database.

At the selection stage, the operational department or legal service unit (in case of adjudicator experts) interested in working with an expert defines its needs, searches for a suitable candidate through the above-mentioned online lists and selects the most suitable candidate. The access to the list is granted to the designated persons within the requesting department responsible for preparing the contract signature file (hereinafter the requesting department "administrative manager").

At the **contract signature stage**, the files with documents are managed manually by the designated person responsible within the Contracts and Procurement Unit (hereinafter – the "experts administrative manager") and submitted for the approval to the requesting department, Budget and

Finance department and the signature of the Authorising Officer. At this stage the experts administrative manager introduces the information from Legal Entities and Financial Identification Forms and a copy of the identity card or passport into accounting system ABAC.

At the **payment of the fees and reimbursement of the travel expenditure stage** the files with documents are continuously managed manually by the experts administrative manager and are submitted for approval the requesting department, Budget and Finance unit and the signature of the Authorising Officer. At this stage the responsible staff of the Budget and Finance Unit make all the necessary steps in ABAC for the payment/reimbursement to be executed by the Accounting team.

Generally, to ensure accurate follow-up of the contracts with individual experts (to track the payments made), the experts administrative manager is working with Excel list with all the experts contracts concluded, including the information on experts name and surname.

10/ STORAGE MEDIA OF DATA

Personal and contact information and the CV's are electronically stored in F4E's internal secure computer network - Sharepoint 2007 instance with an MS SQL Server 2008 database.

Paper files with signed contracts are stored in the cupboard in the office of the experts administrative manager.

11/ LEGAL BASIS AND LAWFULNESS OF THE PROCESSING OPERATION

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

- Council Decision of 27 March 2007 (L 90/58, 30.3.2007) establishing the European Joint Undertaking for ITER and the Development of Fusion Energy and conferring advantages upon it - 2007/198/Euratom;
- The Statutes annexed to the 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
- Fusion for Energy Financial Regulation, Title VII (Experts) - Article 110, as last amended in 2012;
- Guidelines on how to select, appoint and pay F4E experts adopted on 27 September 2010 (F4E_D_239RQA v1.0),

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

X 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

X The data subject has unambiguously given his or her consent (Regulation 45/2001, Article 5(d)), 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

Experts administrative manager of the Contracts and Procurement Unit
Experts administrative managers of the requesting Department or Unit
Head of the Contracts and Procurement Unit
Head of the Legal Service Unit
Responsible Legal Officer of the Legal Service Unit (*in case being the requesting Unit for adjudicators experts or in case of a dispute*)
Head of Administration Department
Authorising Officer (Director)
Responsible Finance officers
Responsible officer of the Accounting Team
The supporting IT officer (*for provision of technical assistance to the expert database tools*)
Internal Auditor (*for audit purpose*)
Court of Auditors (*for audit purpose*)
European Ombudsman (*upon justified request*)
Court of Justice of the European Union (*upon justified request*)
OLAF (*upon justified request*)

13/ RETENTION POLICY OF (CATEGORIES OF) PERSONAL DATA

According to Title VII (Experts), Article 110.2 of F4E Financial Regulation, the list following the call for expression of interest shall be valid for no more than the duration of five years.

The files relating to personal data during the selection of candidates are kept 5 years following the closure of the calls of expression of interest.

The files relating to personal data of the selected candidates are kept for 7 years following the end of the expert contract.

Files might be retained until the end of a possible audit if one started before the end of the above periods.

In any case, personal data contained in supporting documents (relating to the budget implementation measure) shall be deleted where possible when those data are not necessary for budgetary discharge, control and audit purposes.

13A/ TIME LIMITS FOR BLOCKING AND ERASURE OF THE DIFFERENT CATEGORIES OF DATA

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 for blocking or erasure 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.

14/ HISTORICAL, STATISTICAL OR SCIENTIFIC PURPOSES

Not applicable

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*):

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,

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

PLACE AND DATE: BARCELONA,

DATA PROTECTION OFFICER: ANGELA BARDENHEWER

INSTITUTION OR BODY: FUSION FOR ENERGY

ANNEXES:

ANNEX I – a) Call for expression of interest for the establishment of a list of prospective individual experts to provide technical expertise to ‘Fusion for Energy’ (2008/C 169/05);

b) Call for expression of interest for the establishment of a list of prospective individual experts to act as adjudicators for disputes arising from Operational Contracts of Fusion for Energy (F4E D_082626);

ANNEX II – Specific Privacy Notice;

ANNEX III – Print screen of Application Form on F4E webpage;

ANNEX IV – How to select, appoint and pay F4E experts, of 27 September 2010 (F4E_D_239RQA v1.0).