

(To be filled out in the EDPS' office)
REGISTER NUMBER: 1179

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NOTIFICATION FOR PRIOR CHECKING

DATE OF SUBMISSION: 21/10/2013

CASE NUMBER: 2013-1175

INSTITUTION: BEREC

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

INFORMATION TO BE GIVEN²

1/ NAME AND ADDRESS OF THE CONTROLLER

Management Committee of the BEREC Office

Surname: Rehema

Firstname: Ando

E-mail: ando.rehema@berec.europa.eu

Function: Administrative Manager

Administrative address: Meierovica Bulv 14, LV-1050, Riga, Latvia

Data Controller in Practice Title 1 and 2

Surname: Bagge

Firstname: Veronique

E-Mail: veronique.bagge@berec.europa.eu

Function: Head of the Administration and Finance Unit

Administrative Address: Meierovica Bulv 14, LV-1050, Riga, Latvia

Title 3

Surname: Suurnakki

First Name: Ritva

E-Mail: ritva.suurnakki@berec.europa.eu

¹ OJ L 8, 12.01.2001.

² **Please attach all necessary backup documents**

Function: Head of the Programme Management Unit
Administrative Address: Meierovicabulv 14, LV-1050, Riga, Latvia

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

1) Administration and Finance Unit
Place of work: Meierovica Bulv 14, LV-1050, Riga, Latvia
2)
Programme Management Unit - Executive Support
Place of work: Meierovica Bulv 14, LV-1050, Riga, Latvia

3/ NAME OF THE PROCESSING

Management of data resulting from Procurement Procedures launched by the BEREC Office in particular regard with offers sent by bidders. The BEREC Office does not implement grants and does not hire External Experts.

4/ PURPOSE OR PURPOSES OF THE PROCESSING

Personal data is collected and managed for the purpose of complying with certain mandatory obligations under the Financial Regulations, notably:
Representation: Legal representatives of the tenderers' have to be specified
Contact: Contact persons are required to be named for the purpose of implementation of procedure
Assessment: Name, education and skills of proposed external experts are collected, in case the tender specifications require it

5/ DESCRIPTION OF THE CATEGORY OR CATEGORIES OF DATA SUBJECTS

Representatives of candidate companies, staff members of candidate companies, subcontracted experts of candidate companies

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

Categories of data processed:

- Identification data: name (first and family name) of the data subjects, other identification data can be required depending on the situation (e.g. address, phone number etc.); contact details (telephone number, email address, postal address).
- Education data and professional background (education, trainings, language and technical skills, work experience }

- Special categories of data processed: Judicial Records

7/ INFORMATION TO BE GIVEN TO DATA SUBJECTS

Information to data subjects

The permanent publication of this privacy statement - policy document on the BEREC Office website shall be deemed as information to the data subjects about their rights. This privacy statement, as of the day of its approval by the Administrative Manager, will have to be included also in all invitations to tender launched by the BEREC Office.

8/ PROCEDURES TO GRANT RIGHTS OF DATA SUBJECTS

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

Rights of Access

The data subjects are informed that they have the right to access, update or correct their personal data and have them rectified. The right of rectification is obviously limited to the factual data for reasons of transparency and equal treatment. Any such requests will be dealt with within 30 working days. The exercise of this right is guaranteed through the possibility to reach either the Controller(s) in practice or the Data Protection Officer. In each Invitation to tender, in all signed contracts, there is a chapter or a clause with reference to the e-mail address of the "controller in practice" (most frequently, the e-mails of one of the two Heads of Units, namely and alternatively, veronique.bagge@berec.europa.eu and ritva.suurnaldd@berec.europa.eu and, the e-mail address of the DPO, namely and solely, michele-marco.chiodi@berec.europa.eu. However, those rights may be restricted in case it is necessary to safeguard an important economic interest of the EU, including budgetary matters and the right of freedom of others. In this latter case, the data subject will be duly informed of the main reasons for restrictions and of his right to recur to the EDPS.

Rights to recourse

Data subjects are informed that they have the right to have recourse to the BEREC Office Data Protection Officer (dpo@berec.europa.eu, michele-marco.chiodi@berec.europa.eu) if they consider that their Privacy law rights have been infringed as a result of the processing operations, and, to the EDPS at: <https://secure.edps.europa.eu/IEDPSWEB/edps/lang/en/IEDPS>

9/ AUTOMATED / MANUAL PROCESSING OPERATION

Processing of data:

Collection: initiating operational agent (OIA) appointed by Authorising Officer with annual adoption of the Procurement Plan, procurement officer, members of opening and evaluation committees;

Use: management, actors in the financial circuit;

Transfer: Managers, Court of Auditors, European Court of Justice, Lawyers (internal & external), Internal Audit Service of the EC. Potentially, Latvia Courts in case of litigation based on contractual issues (in this case the competent court is not the EU Court);
Storage: Administration and Finance Unit for Titles 1-2 and PM for Title 3;
Destruction of data: Following the relevant retention periods, the data will be eliminated following a documented process.

10/ STORAGE MEDIA OF DATA

Data are stored on paper in a closed cupboard in the Administration and Finance Unit for Title 1-2.

A solution is being studied by the Head of the PM Unit for procedures launched under Title 3 (operational).

Data which is stored in electronic files are protected by a restricted access to the procurement team and financial actors.

11/ LEGAL BASIS AND LAWFULNESS OF THE PROCESSING OPERATION

Legal basis and lawfulness of the processing operations

The processing is lawful under Article 5(a) of regulation 45/2001: the data subject has unambiguously given his or her consent.

In the MC Decision 10(44), namely article 74, the BEREC Office undertakes to apply the rules of the FR-RAP with regard to procurement procedures. The Administrative Manager, who is acting as Data Controller on behalf of the BEREC Office, ensures the implementation of those principles through Internal Administrative Instructions (IAI). The IAI is prior checked by the EDPS.

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

Court of Auditors, European Court of Justice, Lawyers (internal & external - with a Service Contract in place), Internal Audit Service of the EC. Latvian Courts, if needed.

13/ RETENTION POLICY OF (CATEGORIES OF) PERSONAL DATA

Data will be stored at the BEREC Office for maximum seven years in case of data of the successful bidder and for five years in case of data of the unsuccessful tenderers. This retention period is needed for auditing purposes and for the case of appeals and litigation.

Regardless of whether the bidder is successful or not, the extracts from the judicial records will be kept by the BEREC Office for up to two years as of the day of the award decision.

Data will not be kept from the BEREC Office after the end of the above mentioned retention periods.

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

Requests to erase and rectify data should be treated within 30 days upon request with legitimate grounds.

The data should be immediately blocked for verifying purposes.

The data subject will be informed within 5 working days of the approval/rejection of his/her request.

14/ HISTORICAL, STATISTICAL OR SCIENTIFIC PURPOSES

Data are not kept for historical, statistical or scientific purposes.

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

Transfer of data

The data subject shall give his own consent that his personal data may be transferred to external recipient. The publication of the name of the awarded data subject in the OJ is imposed by the FR (Contract Award Notice to be executed within 48 days as of the day of the signature of the contract or as of the day of the award decision).

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

Those procedures are deemed to evaluate personal aspects of each bidder in terms of article 27(2)(b) of the Regulation.

Personal information about the absence of conflict of interests or absence of certain convictions such as bankruptcy, professional misconduct, fraud or corruption are also processed and fall within the scope of article 27(2)a of the Regulation.

17/ COMMENTS

The BEREC Office does not implement grants at all. The BEREC Office has not yet used External Experts for implementation/evaluation purposes.

PLACE AND DATE: RIGA, 14/10/2013

DATA PROTECTION OFFICER: MICHELE CHIODI

INSTITUTION OR BODY: BEREC OFFICE

ECATERINA PASCANU, ASSISTANT ACCOUNTING OFFICER