

(To be filled out in the EDPS' office)

REGISTER NUMBER: 1305

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NOTIFICATION FOR PRIOR CHECKING

DATE OF SUBMISSION: 19/05/2015

CASE NUMBER: 2015-0440

INSTITUTION: EC DG COMP

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

INFORMATION TO BE GIVEN²

1/ NAME AND ADDRESS OF THE CONTROLLER

BRANDTNER Barbara
COMP.R.2
European Commission
1049 Brussels

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

- BICK Consortium, contractor under framework contract "BICK-30-CE-0428585/00-08 Lot 3.1 - Trainings for Senior Managers";
- Cubiks Ltd, subcontractor which helps in the specialised process of data for the 180° feedback tool.
- The contract has data protection and security clauses in place (as described in the contract attached to point 8 and as described under point 19, ARTICLE I.9 – DATA PROTECTION).

3/ NAME OF THE PROCESSING

DG COMP- Development programme for COMP senior managers. Use of a 180° tool of feedback on leadership competencies

4/ PURPOSE OR PURPOSES OF THE PROCESSING

The purpose of the processing is to allow reviewees in the development programme for DG COMP senior managers to obtain feedback on their management and leadership skills to help them develop

¹ OJ L 8, 12.01.2001.

² **Please attach all necessary backup documents**

their competencies. The data will not be used in any form of evaluation (appraisal) process of any of the persons involved.

5/ DESCRIPTION OF THE CATEGORY OR CATEGORIES OF DATA SUBJECTS

Terminology:

- Reviewee(s): the senior manager(s) who agree on a voluntary basis to take part in this exercise; Director(s) or Deputy Directors-General of DG COMP.
- Reviewer(s): all the staff members reporting directly to the respective reviewee (i.e. his or her direct assistants/secretaries and the Heads of Unit reporting directly to the respective Director or the Directors reporting directly to the respective Deputy Director-General) who agree on a voluntary basis to give feedback to their senior manager (reviewee), provided that their working relationship with the respective manager exceeds six months at the date of the feedback. If the respective manager is a Director, feedback from these direct reports will be complemented by feedback from a stratified random sample of staff members who have been working in the Units of his or her Directorate for at least six months and who agree on a voluntary basis to give their feedback, so as to achieve a sufficiently large number of reviewers to ensure their anonymity. The stratified random sampling will be performed by the external consultant, based on the information provided by the HRM Unit of DG COMP on the eligible reviewers (name, staff category and Unit). If the respective manager is a Deputy Director-General, the feedback from his or her direct reports will be complemented by feedback from all Heads of Unit in his or her competition instrument who have been in their post for at least six months and who agree on a voluntary basis to give their feedback.
- Consultant/coach: Professionals working for the external service provider (BICK) who will conduct feedback discussions on one-to-one basis with the reviewees.

Following its HR strategy 2010-2014, its strategy concerning the AD jobs and careers (approved in Senior Management Meeting on 8 April 2013) and the guidelines of its current Learning and Development Framework (2014 – 2015), DG COMP decided to launch a development programme for the middle managers, which was notified to the DPO on 19 March 2014 (EDPS case 2014-0446, registered on 28 May 2014). In the framework of its Strategic HR Plan 2015-2017, DG COMP decided to extend the programme to its senior managers. This programme consists of:

- the establishment of a leadership competency framework specific to DG COMP
- the deployment of a 180° feedback tool, a questionnaire that combines self-perception input and feedback from reviewers, to help the senior managers learn about their professional skills and identify strengths and areas for development in relation to the DG's leadership competency model
- the offer of individual debriefing sessions with subcontractor's experts followed by the drafting of a development plan. The latter will eventually be discussed by the respective manager in a meeting with DG COMP's HR function in order to take stock of the development priorities and appropriate learning activities.

This notification concerns the processing of personal data in the context of the development programme for DG COMP senior managers with the use by DG COMP staff (senior managers participating in the programme and reviewer colleagues) of development tools (Cubiks 180° feedback).

The 180° tool takes the form of a self-assessment of the management and leadership competencies of senior managers ('reviewees') and a feedback given by colleagues ('reviewers') by answering an online questionnaire composed of:

- a set of closed questions
- one open question for further individual comments to be made on a voluntary basis. A disclaimer will explicitly make the reviewers aware of the data protection risk linked to the potentiality of recognizing one's own written style – and will invite them to take the necessary precautions.

An individual report for each manager ('reviewee') will be produced on an aggregated basis (without

allowing the identification of reviewers and the answers given by each one; it will only indicate the total number of reviewers). The report will be made available to the reviewee and, if he or she asks for a de-briefing, to the external coach (BICK) who will conduct the feedback session.

A group report will also be generated and provided to DG COMP HR professionals and the Director-General of DG COMP, who will have access only to aggregated information about the compiled results (such as most voted and less voted competencies, number of participants), without any possibility to track or identify individual answers or individual reviewees.

Up to 13 senior managers are eligible for the programme. The process will be carried out in one wave comprising all reviewees. The reviewees may freely access their questionnaire and reports online. There is no obligation for the reviewees to share the reports with anybody but the coach. The reviewees can opt-out at any moment once the process has started.

The reviewers are invited to give feedback on a voluntary basis. The invitation will consist in an e-mail communication from BICK to the totality of the reviewers. Reviewers who have less than six months of working relationship with the reviewee will not be invited. Staff members belonging to the categories "interiminaire", "external service providers" and "trainees" are excluded from the exercise.

The reviewers will be randomly grouped in two clusters containing up to 12 reviewers each. The grouping will be made by the external consultant. The reason is solely to facilitate the aggregation of data from a technical point of view. This will not constitute a hindrance to the participation of the ensemble of the reviewers in the exercise.

In cases of recent internal mobility (within less than three months), reviewees and/or reviewers will have the option to receive/give feedback from/on their former colleague(s).

A detailed description of the procedure is attached to this topic. A communication is sent to the reviewees and the reviewers explaining the conditions of their participation and the procedure.

The processing of personal data falls under article 27 "Prior-Checking by the EDPS" as the processing operations intend to evaluate personal aspects relating to the data subject (DG COMP senior manager), including his or her ability, efficiency and conduct.

This notification takes into account the recommendations made by the EDPS concerning procedures related to the programmes conducted within SG "360° Leadership feedback report" (Case 2009-0215) and, in particular, the "DG COMP – Development programme for middle managers" (Case 2014-0446).

The development programme for senior managers by using the 180° feedback tool is largely similar to the one for middle managers which was already prior checked by the EDPS and approved through EDPS Opinion of 23 May 2014 under Case number 2014-0446.

6/ DESCRIPTION OF THE DATA OR CATEGORIES OF DATA

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

Reviewees: DG COMP senior managers participating in the development programme herein described.

- Reviewers: staff members (direct reports, complemented by a stratified random sample of staff from their Directorate in the case of Directors and by Heads of Unit in their competition instrument in the case of Deputy Directors-General) who worked with the senior manager for at least six months.

- Data of a personal nature allowing the identification of the data subject (name, first name, electronic address, position, administrative entity)

- Information provided by the reviewees on their own perception of their competencies related to the DG's leadership competency model

- Information provided by reviewers on their perception of the reviewees's competencies related to the DG

COMP leadership competency model

- Feedback reports regarding the reviewees mentioning strengths and areas for development (in relation to the DG's established leadership competency model)
- Recommendations on training and on-the-job development activities matching development needs of reviewees

7/ INFORMATION TO BE GIVEN TO DATA SUBJECTS

All persons participating in this activity will receive an information message to explain the processing and the treatment of data. This information message contains a link to the privacy statement. See copy of this information message attached to point 2 (Communication to the participants).

A copy of the privacy statement itself is attached to this topic.

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

The procedure to grant rights is explained in the privacy statement attached above. See response in the annex to point 11.

9/ AUTOMATED / MANUAL PROCESSING OPERATION

The data for the 180° feedback is entered into a restricted-use website to which the senior manager concerned and the reviewer colleagues have separated and individual access. The information is processed automatically to produce an individual feedback report. No individual input will be visible.

10/ STORAGE MEDIA OF DATA

Data for the 180° feedback tool are stored on computing facilities provided by Cubiks Ltd at Ranger House, Walnut Tree Close, Guildford, Surrey, GU1 4US, United Kingdom, subject to a contract between Cubiks Ltd. and BICK CONSORTIUM. The collected data will not be exported afterwards (see also point 17).

11/ LEGAL BASIS AND LAWFULNESS OF THE PROCESSING OPERATION

Legal basis:

The Commission decision of 7 May 2002 on Staff Training states:

- in Article 1 that learning is both a right and a duty for all persons working in the Commission, regardless of their assigned functions or their place of employment.
- in Article 2 that staff training in the Commission shall have as fundamental objective to expand and improve individuals' competencies so that each staff member can contribute optimally to the achievement of the Institution's goals.
- in Article 7 that the Directors General and Heads of Service shall, within their areas of responsibilities, (e) establish a strategic framework within the DG and (f) put mechanisms in place to manage training at DG level in line with central instructions and recommendations.

The development programme for DG COMP senior managers forms part of the DG COMP Strategic HR Plan

2015-2017, its strategy concerning the AD jobs and careers (approved in Senior Management Meeting on 8

April 2013), and the basis of its Learning and Development Framework (2014-2015) – currently being completed, which includes coaching of managers as one of the priorities for the development of professional and personal competencies necessary to achieve the objectives specified in the DG's Management Plan.

To organise the development programme for its senior managers, the DG uses a framework service contract (contract number: 30-CE-0428585/00-08 EPSO/EAS/PO/2010/116) which has been signed between the European Administrative School (EAS) and BICK CONSORTIUM (contractor) for the delivery of training coaching/consultancy services for the staff in the European institutions, bodies and agencies. This contract concerns lot 3 - Training for senior managers and includes an article I.9 for data protection. Under this framework service contract, DG COMP will contract services from BICK CONSORTIUM for a development programme for DG COMP Directors and Deputy Directors-General with the use of developmental feedback tool (Cubiks, 180° feedback).

Lawfulness: By virtue of art. 5.d of Regulation 45/2001, the data subjects participating in the development programme give their consent to the processing of personal data. This consent can be revoked at any time, also while the exercise is underway. When this happens, the exercise as regards this specific participant has to be stopped and any personal data collected will be deleted.

Article 27 will apply.

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

After agreement of the participants, their professional email address will be communicated to the sub-contractor which will then send by mail the necessary instructions to complete the questionnaire.

The unique recipient of the individual report, automatically generated by Cubiks questionnaire (combining both self-perception questionnaire and reviewers' feedback), is the reviewee.

When requested by the reviewee, the external de-briefer from the subcontractor ("consultant/coach") will receive his/her reports in order to provide individual feedback to the reviewee. DG COMP will receive only the group report, without the possibility of identifying any personal data.

13/ RETENTION POLICY OF (CATEGORIES OF) PERSONAL DATA

The data collected for the launch and completion of the 180° feedback questionnaire are kept for three months after the questionnaire completion and then deleted. Once the senior manager (reviewee) has obtained the individual 180° feedback report, the report will be deleted automatically by the subcontractor Cubiks after three months. The group reports, containing aggregated information without any possibility to track or identify individual answers, will be kept by the DG COMP HR unit for a period of two years. The reason is to allow an analysis of the evolution in case DG COMP decides to repeat the exercise.

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)

For all justified legitimate requests received by the controller, a response will be given within 15

working days from the day DG COMP HR Unit receives the correspondence, which may however send a justified holding reply, in the circumstances set out in point 4 on the Code of Good Administrative Conduct.

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

The following clause is included in the framework contract between the European Administration School (EAS) and the contractor:

ARTICLE I.9 – DATA PROTECTION

1.9.1 Any personal data included in or relating to the Contract, including its execution shall be processed pursuant to Regulation (EC) No 45/2001³ on the protection of individuals with regard to

³ Regulation (EC) n° 45/2001 of the European Parliament and of the Council at its meeting on 18 December 2000 relating to protection of natural persons with regard to the processing of personal data by the institutions and Community bodies and freedom of movement of this data, OJ L 8, 12.1.2001.

the processing of personal data by the Community institutions and bodies and on the free movement of such data. It shall be processed solely for the purposes of the performance, management and follow up of the Contract by (contact details in article I.7 above), without prejudice to possible transmission to the bodies charged with a monitoring or inspection task in conformity with Community law. The Contractor shall have the right of access and the right to rectify any personal data concerning him. All questions regarding the latter should be addressed to the EAS. The Contractor shall have right of recourse at any time to the European Data Protection Supervisor.

I.9.2 Where the present contract requires the processing of personal data, these data are confidential within the meaning of Regulation (EC) No (CE) 45/2001⁴.

The contractor may act only on instruction from the data controller (Mr David WALKER, Director of the EAS, or in his absence, Mr Donald TAIT, Head of Logistics) notably as concerns the purposes of the processing, the categories of data which may be processed, the recipients of the data and the means by which the data subject may exercise his/her rights.

The contractor will limit access to the data to staff strictly necessary for the performance, management and follow-up of the contract. He will ensure that any person who has access to the data will only deal with these on instructions from the data controller.

(...)

I.9.3 In conformity with article 23.2.b of Regulation (CE) No 45/2001, unless by virtue of article 16 or of article

17.3 second indent of directive 95/46/CE⁵ the contractor is already subject to similar obligations by reason of the national legislation of one of the Member States of the EU, he binds himself to adopt or have adopted by his direct or indirect sub-contractors technical and organisational security measures with regard to the inherent risks of the treatment and the nature of personal data in order to:

- a) prevent any unauthorised person from gaining access to computer systems processing personal data;
- b) prevent any unauthorised reading, copying, alteration or removal of storage media;
- c) prevent any unauthorised memory inputs as well as any unauthorised disclosure, alteration or erasure of stored personal data;
- d) prevent unauthorised persons from using data-processing systems by means of data transmission facilities;
- e) ensure that authorised users of a data-processing system can access no personal data other than those to which their access right refers;
- f) record which personal data have been communicated, at what times and to whom;
- g) ensure that it will subsequently be possible to check which personal data have been processed, at what times and by whom;
- h) ensure that personal data being processed on behalf of third parties can be processed only in the manner prescribed by the contracting institution or body;
- i) ensure that, during communication of personal data and during transport of storage media, the data cannot be read, copied or erased without authorisation;
- j) design its organisational structure in such a way that it will meet the special requirements of data protection. The appropriate technical and organisational measures to ensure a level of security corresponding to the requirements set out above shall be agreed between the Contractor and the EAS in writing or in another equivalent form.

⁴ Regulation (EC) n° 45/2001 of the European Parliament and of the Council at its meeting on 18 December 2000 relating to protection of natural persons with regard to the processing of personal data by the institutions and Community bodies and freedom of movement of this data, OJ L 8, 12.1.2001.

⁵ Directive 95/46/EC of the European Parliament and of the Council at its meeting on 24 October 1995 relating to protection of natural persons with regard to the processing of personal data and to freedom of movement of this data, OJ L 281, 23.11.1995.

In the event of any infringement of these clauses, the EAS may terminate the contract immediately without prejudice to any possible damages.

PLACE AND DATE: BRUSSELS, BELGIUM.

DATA PROTECTION OFFICER: PHILIPPE RENAUDIÈRE

INSTITUTION OR BODY: EUROPEAN COMMISSION - DG COMP