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| *To be filled out in the EDPS' office*  **REGISTER NUMBER:** |
| **NOTIFICATION FOR PRIOR CHECKING** |
| Date of submission:    Case number:   Institution:   Legal basis: Article 27(5) of Regulation CE 45/2001(1) |
| *(1) OJ L 8, 12.01.2001* |

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| **INFORMATION TO BE GIVEN**(2) |
| *(2) Please attach all necessary backup documents* |

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| **1/ Name and address of the controller**  Agency for the Cooperation of Energy Regulators  Trg republike 3  1000 – Ljubljana  Slovenia |
| **2/ Organisational parts of the institution or body entrusted with the processing of personal data**  The Agency’s department in charge of processing of the personal data is the Director’s Office.  Mr. Alberto Pototschnig,  Director  Postal address:  Trg republike 3  1000 – Ljubljana  Slovenia  Phone number: 082053409  Email: alberto.pototschnig@acer.europa.eu |
| **3/ Name of the processing**  *Establishment of the Register of Declarations of Interests and Curriculum Vitae of the Senior Management of the Agency for the Cooperation of Energy Regulators and yearly release of the Register to the Public through internet*.  The following abbreviations are hereinafter applied for the purpose of this Notification Form:   |  |  | | --- | --- | | Agency | Agency for the Cooperation of Energy Regulators; | | Register | Register of Declarations of Interests and Curriculum Vitae; | | DoI | Declaration of Interests; | | CV | Curriculum Vitae; | | SM | Senior Management of the Agency for the Cooperation of Energy Regulators; | |  |  | |
| **4/ Purpose or purposes of the processing**  The processing activity entails:   * the collection of Personal Data related to Senior Management; * the establishment and operation of a Register; * yearly release to the Public of the non-confidential version of the Register on the website of the Agency.     *Purpose of the establishment of the Register*:  The purposes of the processing activity, namely the collection within one system all DoIs and CVof SM for the entire length of their employment with the Agency, are:   * ensuring the independence of the decision-making process of the Agency through the prior detection of potential or actual conflict of interests by the organs of the Agency;   *Purpose of the release to the public of the DoIs and CVs*:  The purposes of the processing activity, namely the publication on the website of the Agency of the DoIs and CVs of SM is to allow:   * prior and/or ex-post detection of potential or actual conflict of interests of the decision-making bodies and organs of the Agency.   Both activities aim to ensure independence and integrity of the decision-making bodies and organs of the Agency, and, therefore, overall accountability of the Agency towards the public.  Each senior manager shall make a written DoI indicating either the absence of any interest which may be considered prejudicial to his independence or any direct or indirect interest which might be considered prejudicial to his/her independence in the execution of his/her charge. Each of them shall also provide a non-confidential version of such DoI, where the signature shall not be present.  In addition, each member of the SM shall provide his/her Curriculum Vitae to be reviewed together with the declaration of interests.  After their review, the non-confidential version of the DoI and the CV are published on the Agency’s website and annually updated. |
| **5/ Description of the category or categories of data subjects**  The following categories of data subjects can be identified:   1. Heads of the Departments of the Agency. |
| **6/ Description of the data or categories of data**  *Declaration of Interest*  The DoI forms provided to the SM requires to submit the following data:   1. Full Name (Names, Family Names); 2. Signature; 3. Any interest that the data subject considers prejudicial to his/her independence in the performance of his/her duties as a member of the SM, such as:    * Position in the Agency’s organization;    * Private interests, including interests hold by their close family members (spouse, partner and/or dependent children) such as:    * Employment Relationship with entities or organizations active in the field of activity of the Agency;    * Consultancy;    * Legal representation or Advice;    * Membership of managing bodies, advisory body or equivalent structure in entities or organisations active in a field of activity of the Agency or having voting rights in such organisations;    * Membership or affiliations creating a potential conflict of interests;    * Research funding in the forms of grants, rents, sponsorships, fellowships, non-monetary support received from entities or organisations active in a field of activity of the Agency;    * Investments in a commercial entity with an interests in the field of activity of the Agency, including holding of stocks and shares, stock options, equity, bonds, partnership interest in the capital of such undertaking, one of its subsidiaries or a company in the capital of which it has a holding and which amounts to more than 10,000 EUR per commercial entity or entitling to a voting right of 5% or more in such commercial entity. 4. Any other interest that the data subject considers prejudicial to his/her independence in the performance of his/her duties as a member of the SM.   The non-confidential version of the DoI maintains the same data a part from the signature of the member of the Senior Management.  *Curriculum Vitae*  The CV forms provided to the SM requires to submit the following data:   1. Full Name (Names, Family Names);; 2. Function in the Agency; 3. Professional experience; 4. Education; 5. Training/seminars; and 6. -Publications. |
| **7/ Information to be given to data subjects**  Data subjects will be informed that their data, as submitted in a DoI and CV forms (a model of which is attached to this Notification Form, as Annex 1 and 2 respectively), will be:   1. collected and included in the Registry for five years after the end of the employment relationship with the Agency; and 2. processed so as to consider their content; 3. reviewed prior to release to the public (via a dedicated page on the website of the Agency) so as to ensure that unsolicited data are not included and that the non-confidential version of the DoI does not contain the signature of the SM for security purposes; 4. yearly update.   In particular, the controller provides the data subject with a *privacy statement* (attached to this Notification Form, as Annex 3) containing the following information:   1. the identity of the controller in practice; 2. the purposes of the processing operation for which the data are intended; 3. lawfulness of the processing operation; 4. the legal basis of the processing operation for which the data are intended; 5. categories of data collected and processed; 6. recipients of the data processed; 7. data storage and data retention policy; 8. data subject rights (including the existence of the right of access to, and the right to rectify, the data concerning him or her; 9. contact details of data controller. 10. the right to have recourse at any time to the Data Protection Officer and the European Data Protection Supervisor. |
| **8/ Procedures to grant rights of data subjects**  The rights of data subjects are defined by Regulation (EC) No 45/2001.  In particular, data subjects have the right of i) access, ii) rectification, iii) blocking of data, and iv) erasure (if such needs arise and are duly supported by evidence).  Any modification of data collected by the Agency in the DoI and CV will be automatically updated in the Register, together with the evidence provided or the connected request.  The non-confidential version of the DoI, to be published on the website of the Agency, shall not include the signature of the member of the SM, so as to ensure the security of the signature of the SM and reduce the possibility of frauds.  Further, in relation to personal data within the Register, data subjects can directly request the Agency (using contact email address: [dpo@acer.europa.eu](mailto:remit@acer.europa.eu)) to:   1. clarify their rights; and 2. delete or amend such data, if such need arises and is supported by evidence.   Finally, the data subjects may, at any time, consult the data controller, processing the personal data, or have recourse to the Data Protection Officer of the Agency and to the European Data Protection Supervisor (contact details for DPO and EDPS will be part of the data privacy disclaimer, please see Annex 2 to this Notification). |
| **9/ Automated / Manual processing operation**  Personal data are subject to manual and automated processing operations:   |  |  | | --- | --- | | 1. Manual: | in the course of prior detection of conflict of interests of the SM | | 1. Automated: | for the registration, updating, access to and erasure of files contained in the Registry. | |
| **10/ Storage media of data**  Data will be stored electronically within the Register on a restricted domain accessible only to authorised staff members at: [S:\ACER Departments\Director's\Director's staff\ACER Managers](file:///S:/ACER%20Departments/Director's/Director's%20staff/ACER%20Managers)  Data will be also stored for the relevant calendar year on the Agency website at the following address:  <http://www.acer.europa.eu/The_agency/Organisation/Pages/ACER-director.aspx> (For the Director)  <http://www.acer.europa.eu/The_agency/Organisation/Pages/ACER-departments.aspx> (For all Management) |
| **11/ Legal basis and lawfulness of the processing operation**  *Legal basis*:  Pursuant to Article 298(1) of the Treaty on the Functioning of the European Union “*in carrying out their missions, the institutions, bodies, offices and agencies of the Union shall have the support of an open, efficient and independent European administration*.”  Pursuant to Recital 18 of Regulation (EC) No 713/2009 “*The Agency should have the necessary powers to perform its regulatory functions in an efficient, transparent, reasoned and, above all, independent manner. The independence of the Agency from electricity and gas producers and transmission and distribution system operators is not only a key principle of good governance but also a fundamental condition to ensure market confidence*”.  Pursuant to the combined reading of Article 11 of the Conditions of Employment of other Servants, and Articles 11 and 11a of the Staff Regulations, an official shall carry out his duties and conduct himself solely with the interests of the Union in mind. He shall neither seek nor take instructions from any government, authority, organisation or person outside his institution. He shall carry out the duties assigned to him objectively, impartially and in keeping with his duty of loyalty to the Union. An official shall not, in the performance of his duties and save as hereinafter provided, deal with a matter in which, directly or indirectly, he has any personal interest such as to impair his independence, and, in particular, family and financial interests. Any official to whom it falls, in the performance of his duties, to deal with a matter referred to above shall immediately inform the Appointing Authority. The Appointing Authority shall take any appropriate measure, and may in particular relieve the official from responsibility in this matter. Finally, an official may neither keep nor acquire, directly or indirectly, in undertakings which are subject to the authority of the institution to which he belongs or which have dealings with that institution, any interest of such kind or magnitude as might impair his independence in the performance of his duties.  In addition, the European Parliament, in its Decision of 3 April 2014 on discharge in respect of the implementation of the budget of the European Agency for the Cooperation of Energy Regulators for the financial year 2012 (C7-0328/2013 – 2013/2240(DEC)) observed that the CVs of the BoR members are not publicly available, and called on the Agency to remedy the situation as a matter of urgency.  In particular, the European Parliament, at point 11 of the above mentioned Decision, observed that “*the CVs and declarations of interests of the Board of Regulators' members, the Director, senior management and the experts participating in the Agency's expert groups, as well as the CVs of the Administrative Board and Board of Appeal's members are not publicly available; calls on the Agency to remedy the situation as a matter of urgency*.”  *Lawfulness of the processing*:  The processing is carried out in line with Regulation (EC) No 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 and on the free movement of such data.  In line with Article 5(a) of Regulation (EC) No. 45/2001, processing is necessary for the performance of a task carried out in the public interest on the basis of Article 14(5) of the Regulation (EC) No 713/2009 and the Treaties establishing the European Communities or other legal instruments adopted on the basis thereof and in the legitimate exercise of official authority vested in the Agency to whom the data are disclosed.  In addition, in line with Article 5(b) of Regulation (EC) No. 45/2001, the processing of personal data is necessary for compliance with the legal obligations to which the controller is subject.  Finally, in line with Article 5(d) of Regulation (EC) 45/2001, the data subjects are requested to provide their prior informed and unambiguous consent to the publication of their DoI and CV on the website of the Agency.  *Conclusions*  In light of the legal basis and the activity undertaken to process the personal data identified at Section 6 above, processing is adequate, relevant and not excessive in relation to the purpose for which data are collected and further processed. |
| **12/ The recipients or categories of recipient to whom the data might be disclosed**  In line with the purposes of data processing, the data is disclosed to the following recipients or categories of recipients:   1. For the current year: 2. Authorised Staff of the Agency working in the Office of the Director; 3. the Appointing Authority; 4. the general public; 5. For the precedent years up to 5 years after the end of mandate: 6. Authorised Staff of the Agency working in the Office of the Director; 7. the Appointing Authority; 8. other entities entitled to access the data pursuant to Regulation (EC) No. 1049/2001.   If appropriate, access will be given to the European Court of Auditors, the European Ombudsman, the European Data Protection Supervisor, the European Court of Justice. If requested, personal data can also be disclosed to the European Anti-Fraud Office (OLAF). |
| **13/ Retention policy of (categories of) personal data**    The data retention period is foreseen for 5 years after the end of the employment relationship with the Agency. |
| **13 a/ time limits for blocking and erasure of the different categories of data  (on justified legitimate request from the data subject)**  By 31 March of every year, SM is requested to submit his/her CV together with a DoI, duly filled-in, signed and dated, to the identified staff member in the Office of the Director.  In addition, SM is invited to submit a non-confidential version of the DoI to be published on the website of the Agency. In the non-confidential version the signature shall not be present for security purposes.  Any change in the situation included in the DoI, which may be of relevance for the appraisal of the conflict of interest, should be directly communicated to the Appointing Authority.  Soon after their examination and removal of unsolicited data, the DoI (in its non-confidential version) and CV are published on the dedicated area of the Agency website.  Personal data will be erased after 5 years of the date of end of mandate (for more information on data retention period please see Section 13 above).  Such period can be extended if necessary for the purpose of investigation including personal data.  DoI and CV are substituted every year by an updated DoI, applicable for the year in course. Access to publicly available data is, therefore, blocked after each calendar year, subsequent to the substitution of the DoI form and the CV applicable for the year in course. Data for previous years are available upon request in line with Regulation (EC) No. 1049/2001. |
| **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**  Not Applicable |
| **17/ Comments**  Not Applicable |
| **18/ Measures to ensure security of processing *(3)* *these measures are described in Article 22 of Regulation 45/2001.***  Prior to publication and after yearly updated, processing of personal data within the Register, will be protected by:   * access limited only to authorised Staff Members of the Agency; * verification that the DoI forms do not contain unsolicited data, not necessary for the purpose of the processing; * review of a non-confidential version of the DoI to ensure that the signature of the member of the SM concerned is not present.   Further to publication, there cannot be any unauthorised access. However, the Agency undertakes to publish only non-confidential versions of the DoI with the signature of the relevant member of the SM duly erased. No modifications of such data will be possible unless requested according to Regulation 45/2001. |

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| PLACE AND DATE: Ljubljana, Slovenia; [DD].[10].2014  DATA PROTECTION OFFICER: Paul Martinet  INSTITUTION OR BODY: Agency for the Cooperation of Energy Regulators |