From: [redacted]

To: [redacted]frontex.europa.eu>; HoRAU <HoRAU@frontex.europa.eu>

CC: European Data Protection Supervisor <EDPS@edps.europa.eu>; [redacted]; dpo <dpo@frontex.europa.eu>; [redacted]

Sent at: 11/05/15 10:11:26

Subject: RE: [2015-0346] request for clarification regarding PeDRA

Dear [redacted],
Thank you for your message; "answers only" will be just fine. In those cases where there are small differences in how processes are described in different parts of the notification/attachments, I'll have something along the lines of "Frontex confirmed that X is how it's done" in the text. Since many of the supporting documents are not in final form anyway, there's no need to send updated versions on those points right now.

Best regards,

[redacted]

From: [redacted]
Sent: 07 May 2015 19:47
To: [redacted]
Cc: executive.director; European Data Protection Supervisor; deputy.director; [redacted]
Subject: RE: [2015-0346] request for clarification regarding PeDRA

Dear [redacted]

Thank you kindly for your request for clarification, which will for sure help our Risk Analysis Unit to prepare a better description of PeDRA related processes.
I am forwarding your questions to the relevant Data Controller (Head of that Unit).
Please let us in advance know in which form we shall react:

- answers only; or
- relevant updates (in the Notification and its attachments); or
- both.

We are very much aware that the running of the two months period for prior checking is suspended while Frontex is preparing its answers to EDPS today's request for clarification.

Will I see you tomorrow in Luxembourg during the network meeting?
[redacted]

[redacted]

FRONTEX
www.frontex.europa.eu
Plac Europejski 6, 00-844 Warsaw, Poland · Tel: +48 22 205 9500 · Fax: +48 22 205 9501

From: [redacted]
Sent: 07 May 2015 17:29
To: dpo; [redacted]
Cc: European Data Protection Supervisor; [redacted]
Subject: [2015-0346] request for clarification regarding PeDRA

Dear [redacted],
I would have a couple of questions for clarification regarding Frontex' prior-checking notification for PeDRA. Could you please check with your relevant colleagues?

1) **Categories of personal data:** point 6 of the notification form includes a non-exhaustive list of data categories that may be collected.
   a. This list includes "ethnicity" and "sexual orientation". Please explain the purpose such data would serve in the context of PeDRA. Were these categories simply added to cover any possible information that might be included in the narrative reports submitted by MS?
   b. Please explain what kind of information would fall under "non-offence event" and how it would be relevant (given that Frontex may only further process personal data of persons "suspected on reasonable grounds" by MS competent authorities of cross-border crime, I understand what "offence event" would likely refer to, but how would "non-offence events" be relevant here?).
   c. Will Frontex take steps to reduce the submission of irrelevant or out of mandate information, e.g. by providing training materials for MS officials doing the debriefings? I see on page 26 of the "JORA and PeDRA" document that a template will be provided. Does it already exist and if so, could you please provide a copy?
2) **Scope of PeDRA:** [redacted]

[redacted]

3) For the **legality check**:
   a. Please explain how this check will happen in practice; will there be a checklist or similar rules for assessing whether information may be stored in PeDRA or not (beyond the points mentioned in use case 7 in the Business Requirements Document)?
   b. If a report fails the test, will Frontex always check back with the submitting MS, or only in some cases, and if so, how will it be decided whether or not to do so (use cases 7 and 8 in the Business Requirements Document)
   c. What happens with reports that fail the legality check? Will they be deleted immediately, kept temporarily until clarification has been obtained from the submitting MS, or will something else happen?
4) Step 12 of the data flow description in point 9 of the notification suggests that the **conservation period** of 90 days begins when the legality check is finalised. Point 10 of the notification refers to "date of validation + 3 months" as expiry date. Point 13 of the notification mentions a conservation period of "three months after the data are received by Frontex", use case 17 in Business Requirements Document refers to "89 days after [data] were received", prior to authentification and the legality check. Page 11 of the PeDRA Business Requirements Document mentions that data will be "depersonalised" at the end of the conservation period. Point 13 of the notification form talks about deletion instead. Use case 17 of the Business requirement document mentions manual deletion at the end of the period. The same use case mentions that expired data will be "deleted […] or will be depersonalised".
   a. Which moment is the starting date for the conservation period? Receipt, validation, or passing the legality check?
   b. Will the data be deleted or depersonalised at the end of the period?
   c. In either case, please explain how this would be done (depersonalisation: manually removing personal, automatic scrubbing? // deletion: I gather this would be done manually (use case 17) – why not automatically?)
5) Concerning the **archive**:
   a. Do I understand correctly that the conservation period for the archive is not determined yet, but will likely in the order of 2 or 3 years (step 13 in point 9 of the notification; p. 30 of the "JORA and PeDRA" document mentions 3 years)?
   b. Do I understand correctly that the only two uses for this archive would be to be able to provide information for judicial proceedings (on request of the court) and to reply to queries from data subject?
6) **Transmission to Europol**: [redacted]

[redacted]

[redacted]

7) The PeDRA Business Requirements Document, footnote on page 7 mentions "analytical files (also containing personal data)" as part of PDPs. Does this refer only to the explanatory text introducing, summarising and contextualising the PDP (as per use cases 11-13 of the Business Requirements Document), or are there other underlying sources?
8) **Access management** for further development of JORA for PeDRA: If I understand correctly, the pilot phase will only have one MS contact point who will upload report to PeDRA; in a future full rollout, contact points would be attributed per operation (in practice: hosting MS?).

These questions focus bascially on the description of the data flows; my colleagues from the ITP sector may also have questions on more technical issues, which I will forward to you as soon as they arrive.

I would like to draw your attention to the fact that according to Article 27(4) of Regulation 45/2001, the two months period in which the EDPS must give his opinion is suspended until we receive this information. Please answer this e-mail with the EDPS functional mailbox in cc. (edps@edps.europa.eu), as the date of the reception of your answer to the EDPS mailbox will be the only date taken into account to lift the suspension of the deadline within which the EDPS must render its opinion. Please make a reference in the subject of your message to the case file number 2015-0346.

I will write to you separately concerning Mr Leggeri's proposal for a meeting with the supervisor(s).

Best regards,

[redacted]

[redacted]
Legal Officer
[redacted]

European Data Protection Supervisor
Postal address: Rue Wiertz 60, B-1047 Brussels
Office address: Rue Montoyer 30, B-1040 Brussels
@EU_EDPS www.edps.europa.eu