

GIOVANNI BUTTARELLI
ASSISTANT SUPERVISOR

Ms Jessica MANNHEIM
Head of Human Resources Section
European Centre for Disease
Prevention and Control
Tomtebodavagen 11 A SE 17183
Stockholm

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GB/MV/sn/D(2013)0426 C 2013-0362 and
2009-0072
Please use edps@edps.europa.eu for all
correspondence

Subject: Opinion on the notification for prior checking from the Data Protection Officer of the European Centre for Disease Prevention and Control Agency in the field of time and absence management

Dear Ms Mannheim,

On 3 April 2013, the European Data Protection Supervisor ("EDPS") received from the Data Protection Officer ("DPO") of the **European Centre for Disease Prevention and Control Agency (ECDC)** a notification for prior checking covering time and absence management.

The DPO sent this notification to the EDPS following the adoption on 20 December 2012 of the Guidelines on Leave and Flexitime (the "Guidelines"). A request for further information was made on 27 June 2013 and was partially replied on 28 June 2013. The final information was provided on 4 July 2013. The EDPS sent the draft for comments on 28 October 2013 and a reply was received on 29 October 2013.

Legal aspects

This Opinion deals with the already existing procedures on time and absence at the ECDC. It is based on the Guidelines, which allows the EDPS to focus on ECDC practices that do not seem to be compliant with the Guidelines and the principles of Regulation (EC) No 45/2001 (the Regulation).

The EDPS already analysed time management at ECDC in the past. On 22 June 2009, the EDPS adopted a prior checking Opinion on the processing operations covering "Time and

Postal address: rue Wiertz 60 - B-1047 Brussels

Offices: rue Montoyer 30

E-mail : edps@edps.europa.eu - Website: www.edps.europa.eu

Tel.: 02-283 19 00 - Fax : 02-283 19 50

absence management" at the ECDC (Case 2009-0072). The current notification is an update of this notification as well as a final follow-up to the implementation of the recommendations made in the Opinion of 2009. As a consequence, Case 2009-0072 shall be closed and further analysis is made under the current case 2013-0262.

In the cover letter to case 2013-0362, the ECDC makes reference to a new tool adopted for time and absence management at the ECDC, namely the Allegro system. When designing this new tool, the ECDC states that it took into consideration the recommendation made in Case 2009-0072 regarding the conservation periods for the different categories of data. After analysis, the EDPS considers that the retention periods are in line with the Guidelines as regards Flexitime, Annual and Sick leave, as presented by the ECDC in the updated notification.

However, the EDPS notes that the data protection notice on leave and flexitime does not make reference to the retention period covering sick leave and other leave, only the one on flexitime is mentioned. This information, as provided in the notification should be added to the data protection notice.

The EDPS also notes that, regarding flexitime, both the cover letter and the data protection notice contain the following statement: "ECDC would like to examine in the future the possibility as well as any cost implications of keeping the data on a 12-month basis". The EDPS does not oppose such retention as long as this retention is justified by the ECDC in view of the necessity to calculate the Flexitime and the staff is informed accordingly.

The EDPS also received a copy of the provision of the contract with the service provider of Allegro covering the data protection aspects, which he considers compliant with the Regulation.

As to the security measures, the EDPS received a copy of the declaration of confidentiality that has to be signed by the relevant staff members, in line with section 10 of the Guidelines.

Conclusion

In view of the above, the EDPS recommends that the ECDC completes the information provided in the privacy statement as regards the retention periods covering sick and other leave procedures. At the same time, case 2009-0072 shall be closed.

The EDPS would like to invite the ECDC to inform him about the implementation of the above recommendation within three months after receipt of this letter.

(signed)

Giovanni BUTTARELLI

Cc: Ms Rebecca TROTT, Data Protection Officer, ECDC