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Brussels, 28 November 2014
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for all correspondence

Subject: Prior checking notifications concerning probation, management probation, evaluation, reclassification and evaluation of the third working language knowledge

Dear Mr De Meyere,

I refer to the notifications for prior checking concerning probation, management probation, evaluation and reclassification of temporary and contract agents as well as evaluation of the third working language knowledge submitted to the European Data Protection Supervisor (EDPS) by the Data Protection Officer (DPO) of the Research Executive Agency (REA) on 17 August 2012.

I also take note of the respective privacy statements and the related decisions of the REA Steering Committee submitted additionally on 31 July 2014.

We note that these procedures are in most aspects in compliance with Regulation (EC) No 45/2001¹ (the Regulation) as outlined in the EDPS Staff Evaluation Guidelines² and will therefore only address the existing practices which do not seem to be fully compliant in this respect.

¹ 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 EU institutions and bodies and on the free movement of such data.

² Guidelines concerning the processing of personal data in the area of staff evaluation adopted on 15 July 2011 (EDPS 2011-042).

1. Data conservation. According to the information provided in the respective notifications, personal data kept in the context of the above mentioned evaluation procedures are kept for up to ten years after termination of employment of the person concerned.

Article 4(1)(e) of the Regulation states that personal data can be kept for no longer than necessary for the purposes for which the data were collected or further processed.

The EDPS establishes that no sufficient evidence was provided to demonstrate the necessity of the lengthy storage exceeding to the whole career. Therefore, we recommend to the REA to reconsider the existing time limit or to provide precise justifications in this respect.

In similar cases, the storage of evaluation reports for up to five years after the end of the particular exercise as well as the storage of the reclassification decisions until the termination of employment was considered as in line with the Regulation.

2. Information to data subjects. The specific privacy statements attached to the respective notifications provide for all information required in terms of Articles 11 and 12 of the Regulation. We note that the statements for probation and managerial probation are yet to be made available on the Intranet. Therefore, we invite the REA to proceed with the posting.

In conclusion, the EDPS considers that there is no reason to believe that there is a breach of the provisions of the Regulation provided that the considerations contained in this Opinion are fully taken into account. In particular, the REA should:

- reconsider the existing time limits for conservation of personal data processed in this context or provide for precise justification of the necessity to keep the data for up to ten years after the termination of employment;
- post the privacy statements for probation and management probation on the Intranet.

The EDPS expects the REA to implement the recommendation accordingly and will close the case.

Yours Sincerely,

(signed)

Giovanni BUTTARELLI
(signed)

Cc: Mr Evangelos TSAVALOPOULOS, Data Protection Officer