

Opinion on the notification for prior checking received from the Data Protection Officer of the European Commission on "SYSPER 2: promotion"

Brussels, 9 October 2007 (Case 2007-192)

1. Procedure

Notification within the meaning of Article 27(3) of Regulation (EC) No 45/2001 concerning the "SYSPER 2: promotion" system was given by the Data Protection Officer (DPO) of the European Commission, by e-mail on 20 March 2007.

Because of the complexity of the case, the EDPS extended the time limit by two months, in an e-mail dated 14 May 2007. A number of questions were put to the DPO in an e-mail dated 3 July 2007. Answers were given on 17 August 2007. On 11 September 2007, the EDPS's draft opinion was sent to the DPO for his comments. The response was received on 4 October 2007.

2. The facts

As part of its administrative reform, the Commission has devised a new staff management system called SYSPER 2¹ to manage the Commission's human resources. SYSPER 2 comprises a series of modules each covering precise and specific functions. These modules process personal data.

The Promotion module of SYSPER 2 is the IT tool the Commission uses to manage the annual promotion exercise and implement the provisions of Article 45 of the Staff Regulations of Officials of the European Communities (hereinafter the Staff Regulations), which provide that the Appointing Authority (AA) shall select officials eligible for promotion, after comparative consideration of their merits.

Under the general provisions for implementing Article 45 adopted by the Commission, each official is allocated a certain number of points each year: the more deserving the official, the more points awarded.

2.1 Summary of a promotion procedure

Every year, officials are awarded points for merit, based on the merit marks in their career development reports (called "merit points").

¹ See opinion of the EDPS 2005-218 (SYSPER 2 – CDR), opinion 2005-406 (SYSPER 2: e-CV), opinion 2007-063 (SYSPER 2 - Time Management Module).

Besides merit points there are also priority points, in several categories:

- "Directorate-General (DG)" priority points (DGPPs) awarded by Directors-General to the officials deemed most deserving, within the limits of a defined quota;
- priority points "in recognition of work undertaken in the interests of the institution" (IIPPs) proposed by the Promotion Committees (PCs);
- Promotion Committee appeal priority points (PCAPPs) proposed on appeal by the PCs for officials who have contested the number of DGPPs obtained;
- Appointing Authority transitional priority points (AATPPs);
- Promotion committee transitional priority points (PCTPPs);
- merit points awarded automatically (probation, secondment or transfer);
- compensation points in cases of leave on personal grounds (CCP).

The merit points and priority points are added to the number of accumulated points and represent, for each official, the merit achieved over time that forms the basis for merit comparison between individuals. Officials who have accumulated a number of points higher than or equal to the promotion threshold are promoted, subject to the available budgetary resources.

A number of points equivalent to the promotion threshold is consequently subtracted from the total number of accumulated points of promoted officials. The thresholds are recorded for each grade by the PCs and the appointing authority. They are established on the basis of the available budgetary resources and the allocation of points by the DGs.

Promotion files are administered by computer and are deemed to form an integral part of officials' individual files. Officials have individual access to their promotion files by means of a personal secret password. Promotion files contain inter alia information on the allocation of priority points received under the round and on the individual's situation as regards accumulated merit and priority points.

Publication of merit lists

On the basis of the priority points allocated, the Directorate-General for Personnel and Administration draws up merit lists for each grade by order of the number of points, giving the names of officials who are within five points of reaching the promotion threshold and the names of those who have reached or passed that threshold.

Those lists are made known to staff. Each official is invited to consult his/her promotion file.

Appeals to Promotion Committees

Each official may enter an appeal to the Promotion Committees against the formal intention regarding the award of priority points.

Appeals as referred to above must be submitted within five working days from the publication of the merit list or, at the very most, from the time at which the official could, as a diligent member of staff, have known of the formal intention concerning him/her.

Where an official is prevented, for reasons of justified absence or otherwise, from using the computer system, he/she may submit an internal appeal by means of a note addressed to the Head of the Unit in the Directorate-General for Personnel and Administration which provides the secretariat for the Promotion Committees.

On examining each case the Promotion Committee, where this is considered appropriate, makes a duly substantiated proposal that a certain number of priority points should be granted. To that end, the Promotion Committee addresses a recommendation to the appointing authority. The number of additional priority points thus allocated is made known to staff.

2.2 Privacy Statement concerning the Promotion module

The Privacy Statement sets out the purposes of the Promotion module of the SYSPER 2 application, the main features of the current promotion system, the recipients of the data, rights of access to SYSPER 2's Promotion module and appeal rights, the data storage period, the nature of the data gathered, the relevant information available to data subjects, the controller and the right to have recourse to the EDPS at any point.

Personal data are processed by the Promotion module strictly and exclusively in the framework of the promotion exercise and of the establishment of the corresponding file.

2.3 Other information arising from notification

As to the data subjects, it is stated that, apart from the officials of the European Commission and the administrative agencies (PMO, OIB, OIL, the Publications Office) and EPSO, there is a project for contract agents and temporary staff.

Besides the individual's personnel number, surname and forename, **the categories of data are as follows:**

As an indication, the MERIT POINTS tab in Sysper 2 contains the following information:

- the number of merit points obtained in the current exercise;
- the reason the data subject cannot receive merit points - e.g.: CDR not yet finalised;
- the reference period (the appraisal period);
- the career development reports for the reference period with the reference mark(s) (this includes the annual report, an interim or partial report if the data subject has changed DG, and a probation period report if the probation period ended during the reference period). The official can access the reports by clicking on the links;
- history of administrative positions;
- history of grades since entry into service.

The SUMMARY tab in Sysper 2 contains the following information:

- the DG promotion list on which the data subject is listed for promotion (the DG to which he/she is assigned and grade as at 31 December 2005);
- the PC promotion list on which the data subject is included for comparison with all Commission officials of the same category and grade;
- seniority in grade;
- number of days on leave on personal grounds during the appraisal period;
- number of activity days;
- date of birth;
- date of entry into service at the Commission (as a probationary official);
- list with type of points and number of points and total for the current promotion exercise;
- indication of any suspending procedures (in case of disciplinary proceedings);
- indication of promotion to the next higher grade, or exclusion from promotion, including reasons;

- indication of the number of points accumulated over previous exercises.

The OTHER POINTS tab in Sysper 2 might contain:

- points awarded to compensate for career delay;
- transfer points;
- adjustment points;
- recovered AT2d) points.

The DG PRIORITY POINTS tab in Sysper 2:

Priority points may be awarded by the DG, provided:

- the CDR has been finalised and the objectives and the training map have been established; and
- the CDR does not contain an assessment of "poor" or "inadequate".

The APPEAL tab in Sysper 2

Appeals against the award of DG priority points and points for activities in the interests of the institution must be registered in Sysper 2. If the Promotion Committee finds that the appeal is justified, it may propose to award points on appeal.

The PC PRIORITY POINTS tab in Sysper 2:

The Promotion Committee may award the following priority points:

- appeal priority points where an appeal is accepted (no limit);
- transitional priority points (maximum 3 points);
- points for activities in the interests of the institution (1 or 2 points).

For officials covered by Article 45(2) of the Staff Regulations, information as to ability to work in a third language is also included. In accordance with the common rules adopted by the Commission, EPSO is responsible for processing in relation to this provision.

In addition, the "Access protocol" tab, which the official can consult, contains information on instances of accessing the file. Records of access by the various parties involved in the promotion file, except instances of access by administrators in the appointing authority role at central level, are kept and can be seen (one line per person and per day). Furthermore, an audit trail records every instance of access including those of the appointing authority administrators.

The following information is provided for the data subjects:

First, a Specific Privacy Statement is directly accessible on the processing home page (see 2.2 above).

All officials are given access to the Promotion module via a secret personal password. In any event, they have the right to read their individual promotion files to find out where they stand in terms of points totals. They are also individually informed of decisions to award them priority points and special additional priority points, as well as of promotion decisions where applicable.

In the event of a dispute over priority points, data subjects may appeal through the various internal appeal procedures provided for by the general provisions for implementing Article 45 of the Staff Regulations adopted by the Commission and by Article 90 of the Staff Regulations.

Secondly, several Administrative Notices are published by DG ADMIN on the Intranet during the exercise.

They set out the purpose of the procedure, how it is implemented, its timetable, the way the information will be processed and, in particular, they invite officials to find out what points they have been awarded at the various stages of the exercise.

Finally, an Administrative Notice was published in 2004 that specified the effect of the introduction of the electronic career development report on the way the personnel files are administered and on the processing involved in the Promotion module.

The procedures to guarantee the rights of the data subject are the following:

The person concerned may dispute the number of points awarded by submitting an appeal to the Promotion Committee.

He may request the inclusion in his file of the documents that he considers relevant in support of his appeal and he is entitled to have access to the comments made by the Directorate-General on his appeal.

If he contests certain data, such as seniority in grade, he may ask the administration to check them and if appropriate correct them.

Procedures for automated/manual processing

Promotion of officials to the next grade is defined by Article 45 of the Staff Regulations. Management of the annual personnel promotion exercise is based on the Promotion module of the SYSPER 2 application.

Automated operations

- Transformation of the merit mark, as produced by the official's Career Development Report, into merit points;
- Drawing up of the promotion lists by DG and by grade, and for the entire Commission by grade;
- Awarding of Appointing Authority transitional priority points, which are based on the merit mark and seniority in grade of the officials concerned;
- Awarding of CCP compensation points, awarded on the basis of a formula contained in an Annex to the general provisions for implementing Article 45 of the Staff Regulations;
- Awarding of merit points awarded automatically (probation, secondment or transfer).

Manual operations

- The preparation and sending to Promotion Committee members of password-protected files summarising and analysing appeals submitted by officials;
- The preparation and sending to Promotion Committee members of a password-protected file containing a report of the meetings of the joint evaluation committees on the methods used by each Directorate-General for awarding points;
- The drafting of the reports of the Promotion Committees' proceedings; those reports are confidential and are saved on a shared, protected disk belonging to the ADMIN A/6 unit;

- The entering of the appeal points decided on by the appointing authority at the proposal of the Promotion Committee (PC);
- The entering of the number of IIPP points and transitional priority points decided on by the appointing authority at the proposal of the PC;
- The entering of DGPPs;
- The validation of the promotion decision as adopted by the Appointing Authority.

The data storage medium is based on the relational databases on the Commission's Data Centre servers with individual access via a browser.

Possible recipients of the data

Promotion files are transferred to other Community institutions and agencies if officials are transferred, or apply for a transfer, to another institution. They may also be sent to the Civil Service Tribunal, if it so requests, in the context of proceedings brought before it.

The Promotion module is used by:

- officials of the Commission
- the official's hierarchical superiors (as a rule, the Head of Unit, the Director and the Director-General);
- members of the joint evaluation committees;
- members of the Joint Working Party for the scrutiny of applications for exemption;
- members of the Promotion Committees;
- human resources managers within a service;
- Appointing Authority managers at central level;
- personal file managers;
- recruitment procedure managers for appointments to managerial posts;
- officials responsible for examining appeals pursuant to Article 90 and cases brought before the Civil Service Tribunal;
- officials in charge of inquiries and disciplinary proceedings;
- planned: contract agents and temporary staff.

Rights of access for each user group are organised on a need-to-know basis. Thus, the members of the Promotion Committees have access to promotion files only for officials in the category or function group for which the committee has competence. Access is time-limited: it is given only for the period of the promotion committee meetings, including preparation time. Access means that, after entering a secure password, each member can, from his own computer, consult the promotion files of the officials concerned. During promotion committee meetings, officials' promotion files may be projected on screens, at the request of members.

The storage period is as follows: promotion files are stored in SYSPER 2 until the official (or his beneficiaries) has exhausted all channels of appeal after termination of service within the meaning of Article 47 of the Staff Regulations.

As to deadlines for blocking and erasure of the various categories of data (following a legitimate request from the data subject): requests for blocking or erasure are dealt with in the month following acceptance by the data controller, except where a particular IT development is required that needs more time; in that case other equivalent solutions are proposed.

Security measures

[...]

3. Legal aspects

3.1. Prior checking

The notification received on 20 March 2007 constitutes processing of personal data ("any information relating to an identified or identifiable natural person" – Article 2(a)) and therefore falls within the scope of Regulation (EC) No 45/2001. Such data processing is carried out by an institution and is implemented for the performance of activities falling within the scope of Community law.

The data handled in the course of the promotion procedure for European Commission officials are processed both in automated fashion (Sysper 2 promotion module) and manually (actions of the various Committees and Appointing Authority decision). Thus this is partly automated processing (Article 3(2) of the Regulation).

This processing therefore falls within the scope of Regulation (EC) No 45/2001.

Article 27 of Regulation (EC) No 45/2001 submits to prior checking by the EDPS processing operations likely to present specific risks to the rights and freedoms of data subjects. Article 27(2) contains a list of processing operations likely to present such risks, including, in Article 27(2)(b), "*processing operations intended to evaluate personal aspects relating to the data subject, including his or her ability, efficiency and conduct.*" The procedure for promoting officials and temporary staff of the European Commission is an operation for the processing of personal data covered by Article 27(2)(b) and, as such, is subject to prior checking by the EDPS.

It is mentioned in the notification that a promotion system for temporary staff and contract agents is being planned. In addition, the Commission's IntraComm site mentions the forthcoming introduction of a new promotion (and appraisal) system. The EDPS therefore asked the DPO whether such a prior check would be appropriate, given that the new promotion system could be expected to have an impact on data protection, as regards data quality if nothing else.

The Commission's DPO confirmed his request for "ex post" prior checking of the existing processing as notified, on the grounds that although changes to the promotion system were being considered by the Commission at present, they would not change its nature fundamentally. From the personal data protection point of view, it should in principle make very little substantive difference. The changes proposed would affect the way in which evaluation of officials' merits was expressed and the conversion of the evaluation into merit points and promotion points. But personal data processing operations in that context would not, in the DPO's view, be affected by the proposed changes. Furthermore the date of entry into force of the new system had not yet been fixed and would depend substantially on the consultations currently under way with the unions.

The EDPS is therefore issuing an opinion on the system as presented in the notification. Once the new system has been developed, the DPO will have to check the points relating to data protection and to consult the EDPS if necessary on the need for prior checking.

In principle, checks by the EDPS should be performed before the processing operation is implemented. In this case, as the EDPS was appointed after the system was set up, the check necessarily has to be performed ex post. This does not alter the fact that the recommendations issued by the EDPS should be implemented.

The formal notification was received by e-mail on 20 March 2007. Because of the complexity of the case, the EDPS extended the time limit by two months, in an e-mail dated 14 May 2007, in accordance with Article 27(4) of Regulation (EC) No 45/2001. A number of questions were put to the DPO in an e-mail dated 3 July 2007. The replies were given on 17 August 2007. The DPO was given 23 days in which to comment on the draft EDPS opinion. The EDPS must therefore deliver his opinion by 11 October 2007 (21 May + 68 days' suspension + August + 2 months' extension).

3.2. Lawfulness of the processing

The lawfulness of the processing must be examined in the light of Article 5(a) of Regulation (EC) No 45/2001, which stipulates that the processing must be "*necessary for the performance of a task carried out in the public interest on the basis of the Treaties establishing the European Communities ... or in the legitimate exercise of official authority vested in the Community institution*".

The procedure for promoting European Commission officials, which involves collecting and processing personal data, comes into the category of the legitimate exercise of official authority vested in the institutions. The proposed processing is therefore lawful.

The legal basis for the processing of data in the promotion procedure is:

- Article 45 of the Staff Regulations of Officials of the European Communities.
- the general implementing provisions of Article 45 of the Staff Regulations;
- Articles 10 and 11 of Annex XIII to the Staff Regulations (on transitional measures applicable to officials of the Communities);
- Commission Decision of 18 July 2006 on common rules laying down the procedure for implementing Article 45(2) of the Staff Regulations;
- the general provisions for implementing Article 45 of the Staff Regulations, adopted by the Commission on 20 July 2005, on the detailed rules concerning the promotion procedure for officials paid from appropriations in the research section of the general budget.

The legal basis is valid and supports the lawfulness of the processing.

3.3. Processing of special categories of data

The promotion procedure as described in the "Facts" section takes account of the participation of numerous Committees and groups such as the Joint Working Party for the scrutiny of applications for exemption, the Promotion Committees (to which appeals are submitted – one committee per category of official) and the Joint Appraisal and Monitoring Committee. Each of these joint committees is made up in part of members of the Central Staff Committee. This may reveal the data subject's union membership.

Furthermore, the Promotion Committees are entitled to award priority points and that can also reveal the data subject's union membership.

Article 10(2)(a) applies in this case: "*Paragraph 1 (prohibition on processing data relating to trade union membership) shall not apply where the data subject has given his or her express consent to the processing of those data ...*".

Article 10(2)(d) also applies: "*Paragraph 1* (prohibition on processing data relating to trade union membership) *shall not apply where the processing relates to data which are manifestly made public by the data subject or is necessary for the establishment, exercise or defence of legal claims*".

The processing operation is therefore in conformity with Article 10(2)(a) and (d) of Regulation (EC) No 45/2001.

3.4. Data Quality

Data must be "*adequate, relevant and not excessive*" (Article 4(1)(c) of Regulation (EC) No 45/2001). The data required are administrative in nature and are necessary to assess the work of officials. The processed data described at the beginning of this opinion should be regarded as satisfying these conditions as regards processing.

However, the following data categories appear under the SUMMARY tab in Sysper 2 (see page 3 above, in the section on categories of data): indication of a suspending procedure in case of disciplinary proceedings, and indication of promotion to the next higher grade, or exclusion from promotion, including reasons. And these data are accessible to members of the Promotion Committee members (see above, page 6, in the section on possible recipients of the data). The EDPS recommends that the Commission reassess the need to mention the disciplinary procedure as the reason for the suspending procedure, in order to keep the data non-excessive, as prescribed in Article 4(1)(c) of the Regulation.

The data must also be processed "*fairly and lawfully*" (Article 4(1)(a) of Regulation (EC) No 45/2001). The lawfulness of the processing has already been discussed (see point 2 above). As regards fairness, this relates to the information given to the persons concerned. See point 10 below on this point.

Under Article 4(1)(d) of the Regulation, "*data must be accurate and, where necessary, kept up to date*". The system itself ensures that they are accurate and kept up to date. The data subject has the right to access and the right to rectify data, so that the file can be as comprehensive as possible. This also makes it possible to ensure the quality of data. See point 9 below on the dual rights of access and rectification.

3.5. Data retention

Article 4(1)(e) of Regulation (EC) No 45/2001 sets forth the principle that "*personal data must be kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the data are collected or for which they are further processed*."

Promotion files are stored in SYSPER 2 until the official or his beneficiaries have exhausted all channels of appeal after termination of service (Article 47 of the Staff Regulations). Files can be consulted by means of a user ID and a password. The more general question of retention of the data in SYSPER 2 then arises. The following is stated in this connection: "*In general your personal data is stored until the end of your activity for the Commission. Certain data need to be conserved for a longer period if they are related to subsisting rights and obligations. Personal data concerning applications for jobs are regularly deleted after the deadline for complaints has expired*."

Data are thus conserved for a long but unspecified period. The European Data Protection Supervisor considers that a period during which data may be conserved needs to be set. In a

similar case², the EDPS considered that it was reasonable to fix the conservation period at 10 years, starting from the moment when the staff member leaves or after the last pension payment. The EDPS also considers that data of a purely informative nature no longer necessary for administrative reasons can be disposed of after a minimum retention period of 5 years.

This long-term data conservation will have to be accompanied by appropriate guarantees. The data conserved are personal. The fact that they are archived for long-term conservation does not divest them of their personal nature. For that reason, data conserved over a long period must be covered by adequate measures for transmission and conservation, like any other personal data.

According to the notification, storing data for statistical, historical or scientific reasons is ruled out.

3.6. Change of purpose/Compatible use

Data are retrieved from or entered into the staff databases. The processing operation under review involves no general change to the stated purpose of staff databases, of which promotions form only a part. This means that Article 6(1) of Regulation (EC) No 45/2001 does not apply here and that Article 4(1)(b) of the Regulation is complied with, as the purposes are compatible.

3.7. Transfer of data

The processing operation should also be scrutinised in the light of Article 7(1) of Regulation (EC) No 45/2001. The processing covered by Article 7(1) is the transfer of personal data within or to other Community institutions or bodies "*if the data are necessary for the legitimate performance of tasks covered by the competence of the recipient*".

The data will be circulated to various persons within the Commission. Personal data can only be transferred if necessary for the legitimate performance of tasks covered by the competence of the recipient.

In this instance, transfer to hierarchical superiors, members of the various joint committees, human resources managers within a service or at central level, personal file managers, recruitment procedure managers for appointments to managerial posts, the various officials responsible for examining appeals or in charge of inquiries and disciplinary proceedings, is consistent with the legitimate performance of the tasks of the various parties.

Career development reports may also be transferred to other institutions or agencies in connection with transfers and applications to work in other institutions. The Civil Service Tribunal³ may be sent these files, upon request, in the context of proceedings before it. Such transfers are legitimate as they are necessary for the legitimate performance of tasks covered by the competence of the recipient.

Lastly, Article 7(3) of Regulation (EC) No 45/2001 stipulates that "*the recipient shall process the personal data only for the purposes for which they were transmitted*". It must be explicitly guaranteed that any person receiving and processing data in the context of the annual promotion exercise at the Commission may not use them for any other purpose.

² Case 2004/274 – Staff Appraisal – European Central Bank.

³ The European Union Civil Service Tribunal, set up by Council Decision of 2 November 2004 (2004/752/EC, Euratom), is competent instead of the Court of First Instance. The Court of First Instance is the appeal body.

3.8. Processing including a personal number or identifying number

The Commission uses personal numbers in promotion procedures. The use of the personal number may have the consequence of allowing interconnection of data processed in different contexts. This is not the place in which to determine the conditions under which the Commission may process a personal number (Article 10(6) of the Regulation), but it is appropriate here to emphasise the attention that must be paid to this aspect of the Regulation. In the case in point, the Commission's use of the personal number is reasonable as it is used for the purposes of identifying the person and keeping track of the file. The EDPS considers that this number may be used in the context of the promotion procedure.

3.9. Rights of access and rectification

The person concerned may dispute the number of points awarded by submitting an appeal to the Promotion Committee. He may request the inclusion in his file of the documents that he considers relevant in support of his appeal and he is entitled to access to the comments made by the Directorate-General on his appeal. If he contests certain data, such as seniority in grade, he may ask the administration to check them and if appropriate correct them.

Article 13 of Regulation (EC) No 45/2001 establishes a right of access – and the arrangements for exercising it – upon request by the data subject. In the case in point, data subjects have access to their promotion files so that they can complete all the sections required for the procedure to take its course.

Article 14 of Regulation (EC) No 45/2001 provides the data subject with a right of rectification. In the same way that the data subject has a right of access, he or she may also directly change personal data or have them changed, if necessary.

These provisions, taken overall, fulfil all the conditions of Articles 13 and 14 of Regulation (EC) No 45/2001.

3.10. Information to be given to the data subject

Regulation (EC) No 45/2001 provides that the data subject must be informed where his or her personal data are processed and lists a series of specific items of information that must be provided. In the present case, some of the data are collected directly from the data subject and others from other persons.

Article 12 (*Information to be supplied where the data have not been obtained from the data subject*) on information to be given to the data subject also applies in this case, since the information is collected from the different participants in the process.

In this case, the data subject is informed by means of three instruments:

1. the Specific Privacy Statement accessible from the home page of the Promotion section of SYSPER 2,
2. administrative information is published on the Intranet site by DG Admin in the course of the exercise;
3. the Administrative Notice (No 22-2004) published in 2004 giving details of how personal files would be managed following the introduction of the computerised staff appraisal system.

The data subject is notified of the information specified in Article 12(a) (identity of the controller), (b) (purposes of the processing operation), (c) (categories of data concerned) (d) (recipients or categories of recipients), (e) (existence of the right of access to, and the right to rectify, the data concerning him or her) and (f) (*time-limits for storing the data, right to have recourse at any time to the European Data Protection Supervisor*). The reference to the "*legal basis of the processing operation*", on the other hand, is not mentioned in the Specific Privacy Statement.

The provisions of Article 12 of Regulation (EC) No 45/2001 must be completed by a reference to the legal basis of the processing operation in the Specific Privacy Statement.

3.11. Security

In accordance with Article 22 of Regulation (EC) No 45/2001 on the security of processing, "*the controller shall implement appropriate technical and organisational measures to ensure a level of security appropriate to the risks represented by the processing and the nature of the personal data to be protected*".

In the light of all these measures, the European Data Protection Supervisor considers that they can be considered as adequate within the meaning of Article 22 of Regulation (EC) No 45/2001.

Conclusion

The proposed processing operation does not seem to involve any breach of the provisions of Regulation (EC) No 45/2001, provided that account is taken of the observations made above. This means in particular that the European Commission should:

- reassess the need to mention the disciplinary procedure as the reason for the suspending procedure;
- set a specific period for which the data may be kept, as well as for purely informative data;
- establish, in the context of long-term conservation, adequate measures for the transmission and conservation of personal data;
- explicitly guarantee that any person receiving and processing data in the context of the annual promotion exercise at the Commission may not use them for any other purpose;
- add the reference of the legal basis of the processing operation to the Specific Privacy Statement in the various documents providing information on the promotion procedures.

Done at Brussels, 9 October 2007

Peter HUSTINX
European Data Protection Supervisor