



Opinion on a notification for prior checking received from the Data Protection Officer of the Committee of the Regions concerning the "attestation procedure" case

Brussels, 29 November 2007 (Case 2007-352)

1. Proceedings

By e-mail received on 4 June 2007, a notification within the meaning of Article 27(3) of Regulation (EC) No 45/2001 was made by the Data Protection Officer of the Committee of the Regions concerning the "attestation procedure" case.

Questions were submitted by e-mail on 20 June 2007 and replies given on 5 September 2007. On 15 October 2007 the draft opinion of the European Data Protection Supervisor (EDPS) was sent to the DPO for comment. The DPO sent his comments on 26 November 2007.

2. The facts

On 1 May 2004 officials serving in categories C and D were assigned to two separate career streams allowing for promotions to grades AST 7 and AST 5 respectively. The attestation procedure based on the evaluation of staff records enables officials who fulfil the conditions set out in the internal rules to continue their career up to grade AST 11 without restriction. The procedure does not apply to staff members recruited as officials in categories C* and D* after 30 April 2004. They automatically become members of the AST function group without career restriction.

The Committee of the Regions (COR) is organising a selection procedure for officials authorised to follow the attestation procedure (Article 10(3) of Annex XIII to the Staff Regulations). On 19 October 2007, at the time of the prior checking examination by the EDPS, the COR adopted a new Decision on the arrangements for implementation of the attestation procedure¹. The procedure had up to then been established by the COR Decision of 14 November 2005 (Decision No 333/05) and the attestation exercise had been launched annually as from 1 January 2006. The reason for adopting a new Decision was that the existing arrangements needed to be adjusted in the light of the experience of the first attestation procedure. The 2007 attestation exercise will be launched in autumn 2007 and run until 2009. Furthermore, based on Article 2 of the Decision of 19 October 2007, the administration will conduct an examination of the implementation of the attestation exercise by 31 December 2009.

The purpose of the data processing is to select officials serving in categories C or D before 1 May 2004 who may become members of the assistants' function group without career

¹ Decision No 370/07 on the arrangements for implementation of the attestation procedure.

restriction². The new career structure establishes two function groups - the assistants' function group and the administrators' function group. Provisions have been introduced to ensure the transition towards this new career structure. Officials serving in categories C or D before 1 May 2004 are assigned to career streams allowing for promotions to grade AST 7 for the former C category and to grade AST 5 for the former D category.

The officials eligible to apply for attestation are those referred to in Article 1(1) appointed to a permanent post in the Committee of the Regions in accordance with Article 1a of the Staff Regulations and who, on the date when the call for applications was published, are seconded in the interest of the service or have one of the following administrative statuses referred to in Article 35 of the Staff Regulations: active employment, parental leave or family leave.

Not eligible, however, are those officials referred to in paragraph 1 who, during the year concerned, will be retired automatically in application of Article 52 of the Staff Regulations, those in respect of whom the Committee of the Regions has adopted a Decision definitively terminating their service within the meaning of Article 47 of the Staff Regulations, and those to whom the Committee of the Regions has, under Article 78 of the Staff Regulations, granted an invalidity allowance which takes effect during that same year.

- The new procedure established by the Decision of 19 October 2007 is no longer comparative as it was before: it consists only of an eligibility phase (all applicants who fulfil a set of criteria will be recognised as eligible without ranking the applicants in order to select only those applicants who best fulfil the criteria);
- an ad hoc joint committee was set up to replace the Promotions Committee (AST) for the attestation procedure.

The attestation procedure comprises three stages: publication of a call for applications; establishment of a list of applicants admitted to the attestation procedure; attestation on posts recognised as "administrative assistant" level³.

Pursuant to Article 5 of the Decision, the officials referred to in Article 1 who have applied are admitted to the attestation procedure after an opinion by the Committee referred to in Article 7 provided that they fulfil the following four criteria:

- merit: be able to prove a consistent level of performance which fully meets the requirements of the service and Institution;
- the level of training: have a level of training at least equivalent to that required under Article 5(3)(a) of the Staff Regulations to be appointed to an official's post in the assistants' function group;
- seniority: have at least five years of seniority in career stream C or D. If periods of active employment in career streams C or D are taken into account for fulfilling the criterion of level of training, the minimum seniority required is increased by the number of months corresponding to these periods of active employment;
- professional experience: be able to prove the ability to perform "administrative assistant" level duties.

² Article 1 of Decision No 370/07

³ Duties corresponding to those under the former B* category may be deemed "administrative assistant" level posts.

- Each year the Appointing Authority adopts detailed rules for applying the above criteria referred to in Article 5 of the Decision, after consultation with the Committee referred to in Article 7. Following this Decision, it publishes a call for applications.
- In order to be eligible, it is necessary to meet the conditions set out in Article 5 of the Decision (i.e. fulfil one of the conditions required by Article 5(3)(a) of the Staff Regulations to be appointed to an official's post in the assistants' function group and have at least five years of seniority in career stream C and/or D).
- For each attestation exercise, the Appointing Authority draws up the draft list of the officials who have applied and are admitted to the attestation procedure. This draft list is submitted for the opinion of the Committee referred to in Article 7, which examines all applications received within a reasonable time-limit proposed by the Appointing Authority, and is then published.
- Within ten working days of publication, those officials who have applied considering that they fulfil the criteria under Article 5(1) but who do not appear on the list referred to in paragraph 2 may appeal to the Committee referred to in Article 7. This appeal must be reasoned and accompanied by supporting documents and relevant information. The Committee issues a reasoned opinion on any disputes within 20 working days of the appeal. It may interview the officials who have submitted an appeal and representatives from the Appointing Authority. The Appointing Authority is informed of the opinion and decides how to proceed.
- The definitive list of applicants admitted to the attestation procedure is adopted and published by the Appointing Authority. The benefit of admission to the attestation procedure is not limited in time.
- By 31 March of each year the Appointing Authority publishes the list of officials attested during the previous calendar year.

Article 8 contains transitional measures: if they fulfil the conditions specified in Article 1 and if they apply for the 2007 attestation exercise, officials recognised as eligible for the 2006 attestation exercise are automatically eligible for the 2007 attestation exercise even if they do not appear on the definitive list of officials selected for the 2006 attestation exercise.

The personal data processed under the attestation procedure are as follows:

- the applicant's surname and forename;
- the applicant's status, category and grade;
- the department(s) to which the applicant is assigned and the duties performed;
- the applicant's level of training;
- the applicant's professional experience and seniority;
- the performance points obtained by the official in their staff reports;
- all data from the applicant's last three staff reports.

The data subjects of the data processing under the attestation procedure are assistants who decide to apply for the attestation exercise.

All statements made by applicants in their application are checked against the supporting documents accompanying the application or contained in the data subject's individual file. Before the draft list is published, applicants may consult their file at any time and, where

appropriate, ask for corrections to be made. If necessary, any corrections will be made within ten working days.

When an attestation applicant contests the draft list of persons selected and/or the number of points obtained under the selection criteria, they have ten working days to appeal to the Attestation Committee. If necessary, any correction will be made before closure of the attestation exercise in question.

Protection of personal data

The following specific confidentiality statement is available on the intranet pages relating to the attestation procedure:

Personal data processed under the reporting procedure are processed in accordance with Regulation No 45/2001 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.

Other information from the notification

Staffs are informed of the purpose and arrangements for implementation of the attestation procedure in advance of each attestation exercise via a call for applications.

Right of access and rectification

Staff members have the right to obtain access to their personal data, as well as the right to rectify any inaccurate or incomplete data. Any requests for information regarding the processing of personal data in this context should be addressed to the careers department.

An e-mail may also be sent to the Committee of the Regions Data Protection Officer (data.protection@cor.europa.eu) or to the European Data Protection Supervisor (<http://www.edps.europa.eu>).

Blocking and erasure time limits

Blocking: all statements made by applicants in their application are checked against the supporting documents accompanying the application or contained in the data subject's individual file. Before the draft list is published, applicants may consult their file at any time and, where appropriate, ask for corrections to be made. If necessary, any corrections will be made within ten working days.

Erasure: when an attestation applicant contests the draft list of persons selected and/or the number of points obtained under the selection criteria, they have ten working days to appeal to the Attestation Committee. Where necessary, any correction will be made before closure of the attestation exercise in question.

Information to the data subject

Staff notes on attestation will contain a direct link to the pages mentioned above. This specific confidentiality statement informs data subjects on the purpose of the data collection, their right to access and correct their personal data, the categories of individuals with access to the data and the possibility of contacting those responsible for data protection in the COR or at the level of all the institutions.

In any case, data subjects may, in the event of a dispute, have recourse to the various channels of internal appeal provided for under the attestation procedure (appeal to the Attestation Committee) or via Article 90 of the Staff Regulations. Staff members are informed of the

attestation procedures and time limits to be followed when the attestation exercise is launched and when it is under way (in particular when the draft list of selected officials is published).

Automated/manual procedures

Data processing under the attestation procedure is manual. The results of the attestation procedure (removal of the career restriction to grade 5 or 7) are fed into CENTURIO, the internal human-resource management application.

Data-storage medium

An individual Decision on the arrangements for attestation of the data subject is adopted by the Appointing Authority at the end of the attestation exercise. The original Decision is sent to the data subject and a copy is kept in their individual file.

The draft list and the definitive list of individuals selected for the attestation exercise are published and remain available on the intranet until the end of the calendar year in which the attestation exercise was completed.

Recipients

Data processed under the attestation procedure are disclosed (either wholly or partially) to the following individuals only:

- the members of the Attestation Committee, called upon to issue a consultative opinion on the draft list of individuals selected and/or on the appeals lodged against it;
- the administrators in the careers department of the Personnel Unit responsible for administration of the attestation procedure;

- the Appointing Authority (which establishes the list of officials suitable for attestation);
- members of the Legal Service (where an attestation exercise leads to a complaint under Article 90 of the Staff Regulations and provided that it is necessary for proper handling of the complaint).

Data collected in this context will not be disclosed to third persons, except insofar as it is necessary to achieve the objectives set out above. The only data made public in the form of staff notes are the draft list and the definitive list of individuals selected for attestation.

Data-storage policy

Since the procedure concerns the career path of certain officials, applications received in the context of consecutive attestation exercises and the lists of individuals selected for the different attestation exercises are stored in the careers department archives at least until the end of 2009. Given that the attestation procedure is a procedure introduced as part of the transitional provisions of Annex XIII to the Staff Regulations, the institution will cease to organise attestation exercises once they have lost their transitional utility (i.e. when there is no longer anyone concerned by the transitional attestation procedure). That is why Article 2(2) of Decision No 333/05 requires the administration to evaluate the application of the attestation procedure by 31 December 2009. If attestation exercises continue beyond this date, applications received in the context of consecutive attestation exercises and the lists of individuals selected for the different attestation exercises will be stored in the careers department archives until a decision is taken to organise no further attestation exercises at the COR.

However, in the month following closure of the attestation exercise, supporting documents attached to applications (copies of the most recent staff reports, qualifications obtained, etc.) will be destroyed.

As for attestation files concerning applicants not admitted, the call for applications specifies that *other officials who express an interest in the next attestation exercise(s) and who appear on the definitive list of officials admitted but are classified as unsuitable under the 2006 attestation exercise, will automatically be deemed eligible for the next attestation exercise(s). If necessary, their applications will be examined in the light of the selection criteria set out on that occasion.*

As an integral part of the individual file of the data subject, a copy of attestation decisions is kept there by the Personnel Unit for the duration of their career at the COR. Once the data subject's service is terminated, the individual file is kept in the Personnel Unit archives until there are no longer any dependants (heirs of the deceased official, for example).

As indicated in section 13 of the notification, the attestation procedure is a procedure introduced as part of the transitional provisions of Annex XIII to the Staff Regulations. The institution will cease to organise attestation exercises once they have lost their transitional utility (i.e. when there is no longer anyone concerned by the transitional attestation procedure).

That is why applications received in the context of consecutive attestation exercises and the lists of individuals selected for the different attestation exercises will be stored in the careers department archives until a decision is taken to organise no further attestation exercises at the COR.

Security measures

Where the Attestation Committee is asked to adopt a position on the draft list of individuals selected under an attestation exercise and/or on appeals lodged against this draft list, a full copy of the applicant's application (including the supporting documents, such as a copy of the three most recent staff reports, qualifications obtained, etc.) is made available to the members of that Committee for the duration of its meeting. After the meeting of the Attestation Committee, these copies are recovered and destroyed.

Applications received in the context of the attestation procedure are stored in locked cupboards in the offices of administrators in the careers department.

All data processing arising from staff reports, such as the calculation of points obtained for the different selection criteria established for the attestation exercise, is performed on personal password-protected computers of administrators in the careers department. The offices of administrators in the careers and individual files departments are systematically locked when the administrators concerned are absent.

3. Legal aspects

3.1. Prior checking

The notification received on 1 June 2007 constitutes processing of personal data ("any information relating to an identified or identifiable natural person" - Article 2(a)). The processing operation is carried out by an institution in the context of activities which fall within the scope of Community law (Article 3(1)).

The processing for the attestation procedure is manual, but individual entries for the attestation procedure are stored in an electronic filing system (CENTURIO). Article 3(2) therefore applies.

Consequently, such processing comes under Regulation (EC) No 45/2001.

Under Article 27 of Regulation (EC) No 45/2001, processing operations that present specific risks to the rights and freedoms of data subjects are subject to prior checking by the European Data Protection Supervisor. Article 27(2) contains a list of processing operations that are likely to present such risks. Article 27(2)(b) describes as processing operations likely to present such risks "processing operations intended to evaluate personal aspects relating to the data subject, including his or her ability, efficiency and conduct". The attestation procedure for officials of the Committee of the Regions is a personal data processing operation for evaluation purposes and is therefore covered by Article 27(2)(b) and subject to prior checking by the European Data Protection Supervisor.

In principle, since the checking carried out by the European Data Protection Supervisor is meant to prevent situations likely to carry certain risks, the EDPS's opinion should be delivered before the processing begins. In this case, the attestation procedure follows the adoption of a 2005 Decision and the first attestation procedure covers the year 2006. The EDPS should therefore have been notified at that time. The processing operation had, however, already taken place. The checking therefore necessarily becomes ex post. This does not alter the fact that it would be desirable for the recommendations issued by the European Data Protection Supervisor to be implemented.

Notification from the DPO was received by post on 1 June 2007. Questions were put by e-mail on 20 June 2007. In accordance with Article 27(4) of the Regulation, the two-month time limit within which the EDPS must deliver an opinion was suspended. Answers were given by e-mail on 5 September 2007. On 15 October 2007 the draft EDPS opinion was sent to the DPO for comment by him and the data controller. The DPO sent his comments on 26 November 2007.

The EDPS will deliver his opinion by 3 December 2007 at the latest. (two months + 46 days of suspension + the month of August + 42 days for comment)

3.2. Lawfulness of the processing

The lawfulness of the operation must be examined in the light of Article 5(a) of Regulation (EC) No 45/2001, which provides that "processing is 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 attestation procedure, which involves the collection and processing of personal data concerning staff members of the Committee of the Regions, comes within the legitimate exercise of official authority vested in the institution. The processing operation is therefore lawful.

The legal basis for the data-processing operation in question is to be found in Article 10(3) of Annex XIII to the Staff Regulations (attestation procedure) and in Committee of the Regions Decision No 370/07 of 19 October 2007 on the arrangements for implementing the attestation procedure. The legal base is therefore in compliance and supports the lawfulness of the processing operation.

3.3. Data quality

The data must be "*adequate, relevant and not excessive in relation to the purposes for which they are collected and/or further processed*" (Article 4(1)(c) of Regulation (EC) No 45/2001). The EDPS takes the view that, as they are described, the data are adequate, relevant and not excessive but that there should be an analysis on a case-by-case basis. During the attestation procedure, data related to the assessment of the official's performance are collected and stored. The categories of data processed cover data related to the ability, efficiency and conduct of the official, and also concern the applicant's career and education data. After careful examination, the EDPS is of the opinion that the data listed in the notification and collected for the attestation procedure comply with the criteria set out in Article 4(1)(c).

Under Article 4(1)(d) of the Regulation, "*data must be accurate and, where necessary, kept up to date*". Should the decision taken at the close of the attestation procedure be based on inaccurate information or on a false conclusion drawn from the data available, the official has channels for appeal. The up-to-date nature of the data used during the attestation procedure is of crucial importance since strict time limits regarding the career of the official have to be taken into account. Data subjects have the right to consult and rectify data concerning them, so that the file can be as complete as possible. This also ensures the quality of the data (see also section 3.7 below). The EDPS considers that data quality is guaranteed under the attestation procedure.

Lastly, 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 examined (see section 2 above). As regards fairness, this relates to the information given to the data subjects. See section 3.8 below.

3.4. Data storage

Article 4(1)(e) of Regulation (EC) No 45/2001 establishes 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 were collected or for which they are further processed*".

As mentioned earlier, since the procedure concerns the career path of certain officials, all applications received in the context of consecutive attestation exercises (including, therefore, those from unsuccessful applicants) and the lists of individuals selected for the different attestation exercises are stored in the careers department archives at least until the end of 2009. Given that the attestation procedure is a procedure introduced as part of the transitional provisions of Annex XIII to the Staff Regulations, the Institution will cease to organise attestation exercises once they have lost their transitional utility (i.e. when there is no longer anyone concerned by the transitional attestation procedure).

That is why Article 2(2) of Decision No 333/05 requires the administration to evaluate the application of the attestation procedure by 31 December 2009. If attestation exercises continue beyond this date, applications received in the context of consecutive attestation exercises and the lists of individuals selected for the different attestation exercises will be stored in the careers department archives until a decision is taken to organise no further attestation exercises at the COR.

If the attestation procedure is continued after the evaluation at the end of 2009, the European Data Protection Supervisor stresses the need to set a time limit for storing data and requests an explicit link between storage and the duration of the attestation exercises.

With regard to the attestation files of eligible applicants admitted but deemed unsuitable, the EDPS feels that recognition of their eligibility for the next attestation exercise(s) is reasonable.

However, in the month following closure of the attestation exercise, supporting documents attached to applications (copies of the most recent staff reports, qualifications obtained, etc.) will be destroyed. The EDPS considers that these supporting documents should be destroyed once the deadline for appeal has passed. The EDPS also considers that purely informative data no longer required for administrative purposes should be destroyed at the end of the specified time limit.

As an integral part of the data subject's individual file, a copy of attestation decisions is kept there by the Personnel Unit for the duration of the data subject's career at the COR. That being so, Article 26 of the Staff Regulations applies, especially: "*an official shall have the right, even after leaving the service, to acquaint himself with all the documents in his file and to take copies of them*". Once the data subject's service is terminated, the individual file is kept in the Personnel Unit archives until there are no longer any dependants (heirs of the deceased official, for example).

For the sake of uniform application of storage rules within the Community institutions and bodies, the EDPS would like the duration of this storage to be specified. In similar cases⁴, the EDPS considered that it was reasonable to set the data-storage time limit at ten years, starting from the time when the staff member leaves or the last pension payment. The EDPS considers the ten-year time limit to be reasonable. More specifically, it concerns the storage of attestation data in the individual file for ten years starting from the date on which the official or his legal successors may claim pension rights for an official selected for attestation, or storage until all channels for appeal have been exhausted, including the deadlines for appeals before the Court of Justice in the case of candidates deemed unsuitable for attestation.

This long-term data storage in the personal file will also have to be accompanied by appropriate guarantees. The data kept are personal. The fact that they are archived for long-term storage does not divest them of their personal nature. For that reason, even data kept over a long period must be covered by adequate measures for storage, like any other personal data.

The notification provides that data are not stored for historical, statistical or scientific purposes. The only document which it might be useful for the careers department to store in its archives for historical purposes is the report on the basis of which a decision will one day be taken to no longer organise attestation exercises at the COR (and to which the definitive lists of individuals selected during the various attestation exercises will probably be an Annex). In this context, the EDPS emphasises that when a decision is taken to no longer organise attestation exercises at the COR, any data to be kept in the long term (even beyond the storage time limits set out above) must be made anonymous in compliance with Article 4(1)(e) of the Regulation.

⁴ Case 2007-110: European Parliament attestation procedure and Case 2006-422: Court of Auditors attestation procedure.

3.5. Compatible use

Article 4(1)(b) of the Regulation provides that personal data must be "*collected for specified, explicit and legitimate purposes and not further processed in a way incompatible with those purposes*". The COR does not use the data processed in the analysed context for any purposes other than for establishing whether or not the official is to be attested. Moreover, the administrative data are collected from existing databases. The purpose of the attestation procedure involves no general change of the specified purposes of the various databases at issue and is not incompatible with those purposes. Thus Article 4(1)(b) is fully respected.

3.6. 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 between or within other Community institutions or bodies "*if the data are necessary for the legitimate performance of tasks covered by the competence of the recipient*". Personal data from the attestation procedure are only transferred to a few units and officials, as described above. In this case, the transfer to members of the Attestation Committee in order to enable them to issue a consultative opinion on the draft list of individuals selected and/or on appeals lodged against the list, as well as the transfer to administrators in the careers department of the Personnel Unit responsible for administration of the attestation procedure both comply with the legitimate exercise of the duties of the various parties. The EDPS considers that the transfers carried out are in accordance with Article 7(1) since the data in question are necessary for the tasks entrusted to the recipients.

Data collected in this context will not be disclosed to third persons, except insofar as it is necessary in order to achieve the objectives of the procedure.

The transfer of the lists of attested officials and servants to all Committee of the Regions staff enables the Committee to conduct the attestation procedure in a fully transparent manner.

The European Ombudsman, the EPDS and the Court's internal auditor and DPO may also receive those data. Finally, files may be sent to the Court of First Instance (CFI) in connection with appeals to the CFI⁵. In this case such transfers are justified since they are necessary for the legitimate performance of the tasks covered by the competence of the recipient.

Article 7(1) of Regulation (EC) No 45/2001 has been complied with in this case.

3.7. Right of access and rectification

Article 13 of Regulation (EC) No 45/2001 establishes a right of access and the arrangements for exercising it at the request of the data subject. In the case in point, data subjects have access to their evaluation 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 may also directly change personal data or have them changed, if necessary.

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The European Union Civil Service Tribunal, established by the Council Decision of 2 November 2004 (2004/752/EC, Euratom) is the competent body in place of the Court of First Instance. The latter is the appeal body.

Data considered during the attestation procedure are either directly submitted by the applicant or are taken from the applicant's personal file.

The specific confidentiality statement establishes that *staff members have the right to obtain access to their personal data, as well as the right to rectify any inaccurate or incomplete data. Any requests for information regarding the processing of personal data in this context should be addressed to the careers department.*

This shows that the data controller is prepared to rectify or complete personal data at any time. Data subjects are therefore completely free to exercise their right of rectification. They can also send an e-mail to the Committee of the Regions Data Protection Officer (data.protection@cor.europa.eu) or to the European Data Protection Supervisor (<http://www.edps.europa.eu>). To prevent any unauthorised access, accidental or unlawful destruction, accidental loss, or alteration, officials may only consult their individual file under the supervision of an administrator from the archives department of the Personnel Unit.

Data subjects may, in the event of a dispute, have recourse to the various channels of internal appeal provided for under the attestation procedure (appeal to the Attestation Committee) or via Article 90 of the Staff Regulations.

The EDPS therefore considers that Article 14 is complied with.

3.8. Information to the data subject

Regulation (EC) No 45/2001 states that a data subject must be informed of the processing of data relating to him and lists a range of mandatory items of information which must be provided (identity of the controller, categories of data concerned, purposes of processing, recipients, whether replies to the questions are mandatory or voluntary, origin of the data and right of access). Insofar as such information is necessary to guarantee fair processing, additional information must be supplied regarding the legal basis, time limits and the right to have recourse to the EDPS at any time.

Article 11 (Information to be supplied where the data have been obtained from the data subject) on information to be given to the data subject applies in this case. Insofar as the official or staff member personally fills in the data required of him, the data subject provides the data himself.

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 (staff report, Committee).

Information to data subjects is in this case ensured by the specific confidentiality statement on the attestation procedure available on the COR intranet and informing the data subjects that *personal data processed under the reporting procedure are processed in accordance with Regulation No 45/2001 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.* The application form contains further information on the processing operation.

This specific confidentiality statement informs data subjects on the purpose of the data collection, their right to access and correct their personal data, the categories of individuals

with access to the data and the possibility of contacting those responsible for data protection in the COR or at the level of all the institutions.

The EDPS, however, feels that the statement should cover all the obligations of Article 11 and 12, referring to information on the identity of the data controller, the purpose of the processing, the legal basis (new Decision of 19 October 2007) or the time limits for storing data. The EDPS recommends that the statement be supplemented to that effect.

3.9. Security

Under Article 22 of Regulation (EC) No 45/2001 concerning 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*".

Organisational and technical measures are taken to ensure maximum security of processing.

Having examined all of these measures, the EDPS considers that they are appropriate for the purposes 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, account being taken of the observations made above. This means in particular that the Committee of the Regions should:

- set a time limit for storage of data related to the attestation procedure in the personal file;
- establish adequate measures for long-term storage of these personal data in the personal file;
- at the end of the time limit destroy all data of a purely informative nature no longer necessary for administrative purposes;
- set a time limit during which data may be kept if the attestation procedure is continued after 31 December 2009 and explicitly link storage to the duration of attestation exercises;
- supplement the specific confidentiality statement with the information referred to in Articles 11 and 12 of the Regulation and to take account of the change in the legal basis since 19 October 2007.

Done at Brussels, 29 November 2007

(signed)

Peter HUSTINX
European Data Protection Supervisor

