



Opinion on the notification for prior checking from the Data Protection Officer of the European Parliament concerning Electronic CV

Brussels, 4 October 2011 (case 2011-568)

1. Proceedings

On 10 June 2011, the European Data Protection Supervisor (**EDPS**) received from the Data Protection Officer (**DPO**) of the European Parliament a notification for prior checking concerning the Electronic CV (**eCV**). The notification was accompanied by the following documents:

- Privacy statement,
- explanatory document entitled *Le CV électronique (Support à présentation)*,
- revised Comparative Analysis table on eCV & SKILLS applications,
- controller's notification to the DPO.

On 20 July 2011, the EDPS sent a request for additional information to the DPO which was received on 1 September 2011, together with the English version of the explanatory document mentioned above. A reply to a second information request sent on 2 September 2011 was provided on 8 September 2011, together with a revised Privacy statement. Finally, the comments on the draft Opinion requested on 19 September 2011 were submitted on 27 September 2011.

2. Facts

This prior checking Opinion deals with the new eCV application to be administered by the Internal Organisation and Human Resources Planning Unit of the DG Personnel of the European Parliament (**DG PERS**) for the purpose of internal mobility, such as filling vacant posts, attestation or certification procedures, or finding staff with special skills and experiences for particular working groups or competition selection boards.

The eCV should enable linkages with the main IT tool used by the DG PERS (STREAMLINE¹) and **replaces**, in this respect, **the SKILLS database**².

As indicated by the DPO, the most significant changes between the eCV and SKILLS databases consist of the data subjects' control over their own data, as well as to the broadening of the possible data recipients to Human Resources managers and authorised staff in other Directorates-General of the European Parliament.

¹ Staff Resources And Management onLINE, allowing for an electronic version of the personal file - cf. EDPS letter to the DPO of 8 December 2006 (2006-495).

² This database was already subject to prior checking by the EDPS -cf. Opinion of 13 June 2008 (2008-192).

The use of the eCV application is entirely voluntary, although the staff members deciding not to take part in this exercise should be aware that their profiles would therefore not feature among the eCV search results launched by the Human Resources managers in the context of identifying potential candidates for specific tasks.

The controller is the European Parliament, represented by the Head of the Internal Organisation and Human Resources Planning Unit of the DG PERS.

Data subjects are all staff members employed by the European Parliament, with exception of auxiliary Contract Agents, as well as parliamentary assistants.

Data processed in this context are either provided by the data subjects or automatically extracted from the STREAMLINE database. Accordingly, identification data, headline information about professional experience within EU institutions, as well as internal training³ are extracted from the database, whereas qualitative information about professional experience, education, further training, languages, as well as other abilities are provided by the respective data subject.

All data are kept for three months after the end of career in the EP.

As already mentioned above, apart from the authorised staff of the DG PERS (Director General for Personnel, Director for Human Resources Development, as well as staff of the Internal Organisation, Recruitment and Competitions Units), access to the eCV database will be granted to the Human Resources managers and senior management staff in the relevant DGs, as well as to the Office of the Secretary General. All authorised persons will have a read-only access and an audit trail system will be established that will log each time a data subject's CV is generated by anyone other than him/herself.

Information to data subjects is provided in the form of a privacy statement displayed when opening the eCV application. According to the information provided in the revised privacy statement, each staff member has the right to access, modify, block or delete any of their personal data as entered in their eCV profile at any time. In fact, staff members are invited to modify or delete the data provided by them whenever appropriate, as well as send a request to a functional mailbox for rectification of data automatically extracted from STREAMLINE.

(...)

3. Legal aspects

3.1. Prior checking. The processing of personal data by the European Parliament within eCV for the purpose of internal mobility falls within the scope of Regulation 45/2001. It was submitted for prior checking on the basis of **Article 27(2)(b)** of the Regulation since it involves evaluation of abilities of data subjects in order to determine the most suitable candidates for specific posts and tasks within the European Parliament.

The notification of the DPO was received on 10 June 2011. According to Article 27(4) of Regulation 45/2001, the EDPS Opinion must be delivered within a period of two months. The procedure was suspended for 56 days to allow for provision of additional information, as well as comments. Therefore, the present Opinion must be delivered no later than on 6 October 2011.

³ According to the information provided on 8 September 2011, no information about the last evaluation of abilities in the current post will be extracted from STREAMLINE for the purpose of processing within the eCV.

3.2. Lawfulness of the processing. The EDPS notes that the processing in question should meet a functional need of the service and will be based on a **specific decision** to be adopted in this respect.

He is of the opinion that even though after the adoption of the specific legal basis the eCV could be considered as lawful in terms of Article 5(a) of Regulation 45/2001 (read together with its recital 27), the voluntary nature of the processing implies that processing can also be based on **Article 5(d)** of the Regulation. This provision allows for data processing based on an unambiguous consent of the data subject in terms of Article 2(h) of the Regulation, i.e. a freely given specific and informed indication of wishes by which the data subject signifies his agreement to personal data relating to him being processed.

In the present case, the data subjects are informed about the data processing and its voluntary nature, and invited as well to provide information about their professional experience, education, further training, languages and other abilities as outlined above. By providing this information, the person concerned is clearly giving his/her consent to the processing of his personal data for the purpose of internal mobility within eCV.

3.3. Processing of special categories of data. In the context of the present procedure, data revealing trade union membership spontaneously provided as information on other abilities may be processed. Such processing could be justified in terms of Article 10(2) (a) of Regulation 45/2001 since it would be based on an express consent of the data subject.

3.4. Data quality. Pursuant to Article 4(1)(a), (c) and (d) of Regulation 45/2001, personal data must be processed fairly and lawfully, be adequate, relevant and not excessive in relation to the purpose for which they are collected and further processed, as well as be accurate.

As to the proportionality of the data processed, the EDPS considers all data listed above necessary for the purpose of internal mobility at the European Parliament and thus in compliance with Article 4(1) (c) of the Regulation.

The accuracy of the data processed is ensured by the nature of the procedure itself, as well as by the invitation to make use of the rights of access and rectification (cf. point 3.7).

Lawfulness of the data processing has been already discussed (cf. point 3.2), whereas fairness has to be assessed in the context of information provided to data subject (cf. point 3.8).

3.5. Data retention. According to Article 4(1) (e) of Regulation 45/2001, personal data may be kept in a form enabling the identification of data subjects for no longer than necessary for the purposes for which they were collected or further processed. Further storage of data for historical, statistical or scientific purpose is possible in anonymous form only.

The storage of data processed within the eCV for three months after the end of career at the EP could be considered in compliance with the Regulation.

3.6. Transfer of data. The EDPS notes that the personal data processed within eCV may be transferred to the authorised staff of the DG Personnel, Human Resources managers and senior management staff of the relevant DG, as well as to the Office of the Secretary General on a basis of the internal transfers provision of the Staff Regulations (Articles 7 and 29). He is of the opinion that they can be considered as necessary for the legitimate performance of the competence of the particular recipients. In order to ensure full compliance with Article 7 of

Regulation 45/2001, the EDPS recommends that all recipients are reminded of the purpose limitation set out in Article 7(3) of the Regulation.

3.7. Right of access and rectification. Article 13 of Regulation 45/2001 grants the data subject the right of access to his personal data processed, whereas Article 14 of Regulation 42/2001 provides for a right of rectification without delay of inaccurate or incomplete data.

As indicated above, data subjects have access to all their personal data processed within eCV, and are able to rectify them at any time. Thus, Articles 13 and 14 of the Regulation appear to be duly respected.

3.8. Information to the person concerned. The EDPS acknowledges that all information required in terms of Article 11 and 12 of Regulation 45/2001 is already provided in the Privacy statement as referred above. The compliance with the Regulation appears to be ensured in this respect.

(...)

4. Conclusion

In order to ensure that there is no breach of the provisions of Regulation 45/2001, the above considerations have to be taken fully into account. In particular,

- the specific decision on eCV should be adopted as announced;
- all data recipients should be reminded of their obligation not to process the data received for other purposes than the ones for which the data were transmitted.

Done at Brussels, 4 October 2011

(signed)

Giovanni Buttarelli
Assistant European Data Protection Supervisor