

## **Opinion on the notification for prior checking from the Data Protection Officer of the European Food Safety Authority on Promotion and Reclassification**

Brussels, 26 March 2012 (case 2012-0079)

### **1. Proceedings**

On 24 January 2012, the European Data Protection Supervisor (EDPS) received from the Data Protection Officer (DPO) of the European Food Safety Authority (EFSA) a notification for prior checking concerning annual promotion of officials, as well as reclassification of temporary and contract agents. It was accompanied by the following documents:

- Data protection notice regarding the EFSA annual Promotion/Reclassification of Temporary Agents, Contract Agents and Officials;
- User notice concerning Data Protection & Confidentiality inserted in the HR Database,
- Decision of the Executive Director of 23 July 2010 concerning the career and the promotion of officials (adopted on the basis of Article 45 of the Staff Regulations),
- Decision of the Executive Director of 22 April 2008 concerning the career of temporary staff and assignment to a post carrying a higher grade than that at which they were engaged (adopted on the basis of Article 10 of the Conditions of Employment of other Servants) as amended on 23 July 2010,
- Decision of the Executive Director of 23 July 2010 concerning the career of contract staff and assignment to a post carrying a higher grade than that at which they were engaged (adopted on a basis of Article 87(3) Conditions of the Employment of Other Servants),
- Amendment of the three foregoing decisions following the 2011 EFSA reorganisation,
- notification to the DPO by the data controller.

On 20 March 2012, the DPO informed the EDPS that he has no comments on the draft Opinion sent on 16 March 2012.

### **2. Facts**

This prior checking Opinion deals with the already existing promotion and reclassification procedures at the EFSA and is based on the EDPS Staff Evaluation Guidelines of 15 July 2011<sup>1</sup> which allows the EDPS to focus on the practices that do not seem to be fully compliant with Regulation 45/2001<sup>2</sup>.

**2.1. Data retention.** According to the information provided in the notification, data processed in this context are kept for five years after termination of employment. In fact, the paper version of the individual decisions on promotion / reclassification is kept in personal files, whereas "information concerning the promotion / reclassification of each individual staff member" is also kept in the HR and Centurio databases.

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<sup>1</sup> Guidelines concerning the processing of personal data in the area of staff evaluation (EDPS 2011-042).

<sup>2</sup> 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 Community institutions and bodies and on the free movement of such data.

Article 4(1)(e) of Regulation 45/2001 states that personal data can be kept in a form permitting identification of data subjects for no longer than necessary for the purpose for which they were collected or further processed.

The EDPS is of the opinion that the necessity of the above mentioned storage period extending to the whole career is questionable and thus invites the EFSA to establish shorter one in relation to the actual purposes of the processing. In similar cases, the storage of promotion and reclassification decisions until the termination of employment was considered in conformity with Regulation 45/2001<sup>3</sup>.

**2.2. Data transfers.** Whereas all data transfers within the EFSA can be considered as in full compliance with Article 7(1) of Regulation 45/2001, only certain recipients seem to be aware of their obligation to process the data received exclusively for purposes for which they were transmitted. In fact, only the staff of the Human Capital and Knowledge Management Unit (HUCAP) is reminded of the obligation "to process the data solely for the indicated purpose" in the User notice mentioned above.

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

### **3. Conclusion**

In view of the above, the EDPS recommends that the following measures are taken in order to ensure full compliance with Regulation 45/2001:

- the existing data retention periods are reconsidered in terms of the actual purposes of the processing;
- all data recipients are reminded of the purpose limitation principle.

Done at Brussels, 26 March 2012

**(signed)**

Giovanni BUTTARELLI  
Assistant European Data Protection Supervisor

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<sup>3</sup> cf. EDPS Opinion on Career Development Review, Probation and Reclassification at the EACEA of 6 February 2012 (EDPS 2010-589, 2011-1071 and 2011-1072) and EDPS Opinion on Probationary Reports, Staff Appraisals and Promotions at the Eurofound of 19 December 2011 (EDPS 2011-628).