



Opinion on the notification for prior checking from the Data Protection Officer of the European Commission concerning Continuous Quality Monitoring and Assessment of Auxiliary Conference Interpreters in DG Interpretation

Brussels, 29 March 2012 (case 2010-912)

1. Proceedings

On 18 November 2010, the European Data Protection Supervisor (**EDPS**) received from the Data Protection Officer (**DPO**) of the European Commission a notification for prior checking concerning the continuous quality monitoring and assessment of auxiliary conference interpreters (**ACIs**) in DG Interpretation (**SCIC**)¹.

The additional information requested on 28 September 2011 was provided on 15 November 2011². Accordingly, on 25 November 2011, the procedure was extended by one month due to complexity of the case. The comments on the draft Opinion sent on 16 December 2011 were provided by the Data Protection Coordinator of DG SCIC on 19 March 2012.

2. Facts

¹ Accompanied by the following documents:

- page 6 of Communication on the reorganisation of the SCIC (SCIC/CS D(2003)61),
- Regulation 1/1958 determining the languages to be used by the EEC,
- Evaluation Report template,
- revised Agreement on working conditions and the pecuniary regime for ACIs recruited by the institutions of the EU ('the Convention'),
- Mission statement of DG Interpretation,
- Functional diagram of the applications dealing with the planning of meetings and interpretation (Coralin),
- Description of the Processing of Personal Data in the Context of the Notification on the Continuous Quality Monitoring of ACIs,
- Guidelines for monitoring quality and professional ethics (ARES (2001)110547),
- templates of messages for attribution/withdrawal of evaluation task, submission of evaluation report/comments, information about inability to complete the evaluation task,
- Rules of Procedure of the Joint Quality Group of 11 June 2010,
- *Curriculum administratif* template,
- Information Note on ACI Employment Coefficient of 20 January 2010 (ARES(2010)110646),
- Professional Competency Rating (ARES (2010)110760),
- Information Note on Continuous Quality Monitoring and the Assessment of ACIs in DG Interpretation,
- *Group Paritaire Qualité* (ARES (2010)112569),
- SERIF - Online Freelance (ACI) Reporting System (ARES (2010)813229).

² Together with the following documents:

- *Projet de Compte Rendu du Comité interinstitutionnel de la traduction et de l'interprétation, 33ème réunion - 19 février 2009,*
- Note on Quality Control Arrangements of 29 September 2009 (ARES(2009)256287),
- standard contract for Conference Interpreting Agents.

This prior checking Opinion deals with the existing quality monitoring and assessment of ACIs and addresses the additional features of the quality assurance procedure, namely the establishment of the **Employability Coefficient** and the referral to the **Joint Quality Group**³. It complements the SERIF⁴ application that has already been subjected to prior checking by the EDPS in 2006⁵.

The Employability Coefficient is a recruitment tool based on a points system and involves evaluation of the ACIs in terms of their professional competence, professional domicile and number of working languages. The professional competency rating (**PCR**) is determined by the Head of the Interpretation Unit (HIU) on a basis of the regular SERIF reports, as well as any other relevant quality information, such as personal experience of working with the ACI or feedback from meeting organisers, participants and members of SCIC management.

The ACI concerned can contest his PCR by requesting a dialogue with the HIU and, failing that, complain to his hierarchical superior who will take a final decision.

In case of serious or persistent concerns about professional quality or ethics of a particular ACI that could not be addressed in the professional dialogues, the HOI has to refer the case to the Joint Quality Group (**JQG**). To this aim, he has to prepare a separate paper file consisting of a cover note describing the facts and proposing a course of action, as well as supporting documents, such as SERIF reports, complaints from meeting organisers, participants or other members of the Directorate A relating to serious misconduct or unprofessional behaviours. A confidential copy of this file is then provided to each member of the JQG, as well as to the concerned ACI who is entitled to request a hearing by the Group. The conclusion of the process is a recommendation to the Director General who has to come up with final conclusions as to the course to be followed.

3. Legal aspects

This Opinion is based on the Staff Evaluation Guidelines⁶ which allows the EDPS to focus on practices that do not seem to be fully compliant with the Data Protection Regulation 45/2001⁷.

The EDPS notes that the administrative and evaluation data are processed in compliance with data quality principles set out in Article 4(1) (a), (c) and (d); the rights of access and rectification can be granted to the data subject in accordance with Articles 13 and 14; as well as that the applicable security measure can be considered as adequate in terms of Article 22.

However, the EDPS observes that the data retention, the data transfers and the information policy appear not to be in full compliance with the Regulation. Therefore, he addresses these issues in more detail below.

3.1. Data retention. According to the additional information provided, personal data processed in this context are kept for 20 years after the closure of the respective file⁸.

³ Replacing the former *Groupe interinstitutionnelle de qualité* (GIQ) - see in detail below.

⁴ *Système d'Enregistrement de Rapports sur les Interprètes Freelance*.

⁵ cf. EDPS Opinion 2006-001 adopted on 21 March 2006.

⁶ Guidelines concerning the processing of personal data in the area of staff evaluation adopted on 15 July 2011 (EDPS 2011-042).

⁷ Regulation (EC) No 45/2001 of the European Parliament and 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.

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 existing lengthy storage periods appear to be disproportionate to the whole quality assurance procedure at the SCIC. Therefore, the Commission is invited to establish a shorter one in relation to the actual purpose of the processing, unless the necessity of such a lengthy time limit can be reasonably justified.

3.2. Data transfers. Whereas all data transfers within the SCIC can be considered as necessary for the performance of the respective task within the quality assurance procedure in terms of Article 7(1) of Regulation 45/2001, none of the recipients seem to be aware of the purpose limitation obligation set out in Article 7(3).

Therefore, the EDPS recommends that all internal recipients are made aware of their obligation not to process the received data for any other purposes than the ones for which they were transmitted.

3.3. Information to the person concerned. The existing information notes do not seem to provide any information listed in Articles 11 and 12 of Regulation 45/2001.

Consequently, the EDPS recommends that information on identity of the controller, purpose of the processing, data categories, data recipients, rights of access, rectification and recourse, legal basis of the processing, retention period and origin of the data is added to the respective notes or provided in a separate privacy notices.

4. 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:

- shorter storage periods are established in relation to the actual purposes of the data processing unless the necessity of the existing time limits can be reasonably explained;
- all data recipients are reminded of the purpose limitation principle;
- information to data subjects is made available as outlined above.

Furthermore, the notification form should be revised as indicated above.

He would like to invite the European Commission to inform him about the implementation of these recommendations within three months after receipt of this letter.

Done at Brussels, 29 March 2012

(signed)

Giovanni BUTTARELLI
Assistant European Data Protection Supervisor

⁸ With exception of the working files of the JQG members which are destroyed by the JQG Chair after the end of the referral procedure, apart from one master copy kept for a period of two years.