



Opinion on the notification for prior checking received from the Data Protection Officer of the Translation Centre concerning staff appraisal

Brussels, 19 July 2012 (Case 2012-475)

1. Procedure

On 4 June 2012, the European Data Protection Supervisor (EDPS) received from the Data Protection Officer (DPO) of the Translation Centre for the Bodies of the European Union (CdT) a notification for prior checking concerning the staff appraisal procedure, together with the following documents:

- *Decision of the Translation Centre for the Bodies of the EU on general provisions for implementing Article 43 of the Staff Regulations and Article 15(2) of the CEOS of 12 March 2008 (with the Staff Report template in the Annex),*
- Practical guide for post-holders,
- *Appraisal Report – User Guide,*
- *In Touch newsletter No 16 of 28 April 2008 on Appraisal procedure 2007.*

On 14 June 2012, the EDPS received a copy of the note on personal data protection (*Specific privacy notice on Staff Appraisal*).

On 16 July 2012, the DPO informed the EDPS that he had no comment to make on the draft Opinion sent on 13 July 2012.

2. Legal aspects

The present Opinion relates to the staff appraisal procedure within the CdT and is based on the Guidelines in the area of staff evaluation¹ enabling the EDPS to focus on those practices which do not appear to comply with Regulation (EC) No 45/2001 on data protection².

2.1. Data retention. The time-limit for retention of appraisal reports in the personnel file is set at ten years from the date of departure of the data subject or of the last payment of his/her pension.

¹ Guidelines concerning the processing of personal data in the area of staff evaluation adopted on 15 July 2011 (EDPS 2011-042).

² 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 on the free movement of such data.

Article 4(1)(e) of Regulation No 45/2001 requires personal data to be stored in a form which permits identification of the data subjects for no longer than is necessary for the purposes for which the data were collected or for which they are further processed.

The EDPS notes that the need for the above-mentioned time-limit is not sufficiently demonstrated in light of the purposes of the data collection and processing operation. The EDPS therefore calls on the Centre to review that retention period and to provide the specific justifications to be taken into account in the upcoming discussions between the EDPS and the relevant departments.

2.2. Transfer of data. The EDPS notes that transfers of data within the Centre and to other institutions of the European Union comply with Article 7(1) of Regulation 45 No/2001. Nonetheless, it recommends a reminder in accordance with Article 7(3) that each of the recipients may process the data received only for the purpose for which they were transmitted.

3. Conclusion

The proposed processing operation does not appear to involve any breach of the provisions of Regulation No 45/2001, provided that the observations made above are taken into account. This means, in particular, that the need for a time-limit for the retention of appraisal reports should be reconsidered and specific justifications for their retention should be provided, and that all the recipients should be reminded to process the data only for the purpose for which they were transmitted.

The EDPS calls on the Translation Centre to inform it that the present recommendations have been implemented within a period of three months from the date of receipt of this Opinion.

Done at Brussels, 19 July 2012

(signed)

Giovanni BUTTARELLI
Assistant European Data Protection Supervisor