



Opinion on the notification for prior checking from the Data Protection Officer of the Cedefop concerning Attestation procedure

Brussels, 19 November 2012 (case 2012-0706)

1. Proceedings

On 23 August 2012, the European Data Protection Supervisor (EDPS) received from the Data Protection Officer (DPO) of the European Centre for the Development of Vocational Training (Cedefop) a notification for prior checking concerning the Attestation procedure together with the respective Privacy statement and General implementing provisions (Cedefop/DGE/16/2012).

The procedure was suspended from 19 October to 12 November 2012 to allow for DPO comments on the draft Opinion.

2. Legal aspects

This Opinion deals with the new attestation procedure and complements the already existing opinions on staff evaluation¹, as well as career advancement and assessment of the senior and middle management² at the Cedefop. It is based on the Staff Evaluation Guidelines³ which allows the EDPS to focus on the practices that do not seem to be fully compliant with the Data Protection Regulation 45/2001⁴.

2.1. Data retention. The following data retention policy is applicable in the present case:

- attestation files are kept for five years after the end of the particular attestation exercise (three years in active status and two in the archives),
- the actual attestation decisions are kept in personal files for eight years after extinction of all rights of the person concerned or any dependants but at least for 120 years after birth of the person concerned,

all in accordance with the Cedefop Records Classification Plan and Retention Schedule of March 2012.

¹ Opinion on Staff Appraisal adopted on 24 May 2011 (EDPS 2010-620).

² Joint Opinion on Promotion, Career Advancement and Assessment of Senior and Middle Management adopted on 11 June 2012 (EDPS 2012-009 + 2012-010).

³ Guidelines concerning the processing of personal data in the area of staff evaluation adopted on 15 July 2011 (EDPS 2011-042).

⁴ 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 observes that the five years retention period for attestation files can be considered as necessary for the related appeals. At the same time, there seems to be no sufficient evidence as to the necessity of the storage of the actual attestation decisions beyond the end of career at the Centre. Therefore, the Cedefop is invited to reconsider the existing time limit and to provide for precise justifications that will be taken into account in the upcoming discussions with the relevant stakeholders.

2.2. Data transfers. The data transfers within the Centre, as well as to other EU institutions can be considered as necessary for the accomplishment of the respective task in the attestation procedure and thus in compliance with Article 7(1) of Regulation 45/2001.

In order to ensure full compliance with the Regulation, the EDPS recommends that all data recipients are made aware of the purpose limitation set out in Article 7(3).

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 storage period for attestation decisions is reconsidered;
- all data recipients are reminded of the purpose limitation principle.

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

(signed)

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