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ASSISTANT SUPERVISOR

Mr Gerhard GRILL
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GB/OL/mk/ D(2013)0612 C 2013-0217
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correspondence

Subject: EDPS prior check Opinion on the attestation procedure at the European Ombudsman (Case 2013-0217)

Dear Mr Grill,

On 20 February 2013, the European Data Protection Supervisor (EDPS) received a notification for prior checking under Article 27 of Regulation (EC) No 45/2001 ('the Regulation') relating to the processing of personal data in the 'attestation procedure' from the Data Protection Officer (DPO) of the European Ombudsman.

Pursuant to Article 27(4) of the Regulation, the EDPS must deliver his Opinion within two months following receipt of the notification. On 11 March, the EDPS sent a draft of the Opinion to the European Ombudsman's DPO. He received comments from the DPO the following day. Whilst waiting for those comments, the case was suspended. The EDPS must therefore deliver his Opinion before 22 April 2013.

Since attestation procedures have already formed the subject matter of EDPS Guidelines on staff evaluation¹, this Opinion will focus solely on the aspects of the data processing which deviate from the recommendations made in the Guidelines and/or which are inconsistent with the Regulation.

¹ Adopted in July 2011 and available on the EDPS website (at present in English only).

In order to comply with Article 11 of the Regulation, the data protection statement or the instructions relating to the application form should specify a means of contacting the controller. It is true that there is already a reference to the functional mailbox careers@ombudsman.europa.eu in the instructions, but it would be good if those instructions stated that that mailbox may also be used to contact the controller in relation to requests for access or rectification.

With regard to requests for rectification made after the closing date for applications, the EDPS points out, in accordance with its Guidelines covering recruitment procedures,² that any limitation on the right of rectification after the closing date for the submission of applications should apply only to data related to the admissibility criteria and not to the identification data, which may be rectified at any time during the selection procedure. The EDPS therefore suggests that this point be clarified.

The processing proposed does not appear to entail any infringement of the provisions of the Regulation, provided that account is taken of the observations made above.

This means, in particular, that the European Ombudsman should clarify how the persons concerned may contact the controller with a view to exercising their rights.

Please notify the EDPS within three months of the measures adopted in order to comply with the recommendations made in this Opinion.

Yours sincerely,

(signed)

Giovanni BUTTARELLI
Assistant Supervisor

Cc: Ms Rosita AGNEW, Data Protection Officer, European Ombudsman
Mr Alessandro DEL BON, Deputy Head of Unit, Administration, Personnel and Budget
Unit, European Ombudsman

² See Guidelines concerning the processing operations in the field of staff recruitment, 10 October 2008, p. 8, available on the EDPS website.