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ASSISTANT SUPERVISOR

Ms Lene PEDERSEN, Head of Human
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Dear Ms Pedersen,

On 26 June 2013, the EDPS received a notification for prior checking under Article 27 of Regulation 45/2001 (the Regulation) from the Data Protection Officer (DPO) of the European Environment Agency (EEA) concerning the EEA's staff appraisal procedures.

On 19 July 2013, the EDPS requested additional clarification; the EEA provided answers on 5 August 2013. The draft Opinion was sent to the EEA on 30 September 2013; on 4 November 2013, the EEA confirmed that there were no comments.

As this is an ex-post case, i.e. the processing operations are already happening, the two-months deadline for the EDPS to issue his Opinion does not apply. This case has been dealt with on a best-effort basis. The EDPS has already issued guidelines on staff evaluation procedures.¹ For this reason, the description of the facts will only mention those aspects which diverge from the Guidelines.

The Facts

Appraisal reports are stored for 10 years after end of employment or the last pension payment. The conservation period is not mentioned in the privacy statement.

Legal Analysis

According to Article 4(1)(e) of the Regulation, personal data are to be "kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the data were collected or for which they are further processed".

¹ Available on the EDPS website.

The necessity for the lengthy conservation period of ten years end of employment/last pension payment is questionable as it does not correspond to the specific purposes for which the data were collected and/or further processed, i.e. the accomplishment of the respective appraisal exercise. These appraisal reports need not necessarily still be relevant during the whole career/contract and beyond of the person concerned. Evaluators should be able to consult previous reports to assess the progress made by the member of staff, but appropriate time limits should be established as to how far back the reports can go. Five years from the end of the appraisal exercise seem to be an appropriate period. The EEA **is invited to reconsider the existing time limits** in this respect and to provide for their precise justifications that will be taken into account in the upcoming discussions with the relevant stakeholders.

Article 11 of the Regulation lists the information that is to be supplied to the data subject; one of the items contained in this list is the conservation. This information is currently missing; therefore, **information on the conservation period should be added to the privacy statement.**

Conclusion

There is no reason to believe that there is a breach of the provisions of Regulation No 45/2001 providing that the considerations contained in this Opinion are followed.

Please inform the EDPS of the measures taken based on the recommendations within a period of 3 months.

Yours sincerely,

(signed)

Giovanni BUTTARELLI

Cc: Mr Olivier Cornu, Data Protection Officer, EEA