



GIOVANNI BUTTARELLI
ASSISTANT SUPERVISOR

Mr Pascal SAVOURET
Executive Director of the
European Fisheries Control Agency
Avda. García Barbón, 4
E-36201 Vigo
SPAIN

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Please use edps@edps.europa.eu for all
correspondence

Subject: Notification on Anti-harassment procedures and the selection of confidential counsellors at EFCA

Dear Mr Savouret,

On 11 April 2014, the European Data Protection Supervisor ("**EDPS**") received a notification for prior checking under Article 27(2) of Regulation (EC) No. 45/2001 (the "**Regulation**") relating to Anti-harassment procedures and the selection of confidential counsellors from the Data Protection Officer Alternate of the European Fisheries Control Agency ("**EFCA**").

Given that informal anti-harassment procedures have already been the subject to EDPS Guidelines¹, this prior check Opinion will only focus on those aspects that diverge from the Guidelines and/or are not compliant with the Regulation.

Legal Analysis

Controllership

Legally speaking, EFCA as an agency is the controller of the processing operation, with the Resources Unit being the organisational part entrusted with the processing of personal data. The Regulation never refers to specific individuals as controllers, but always to institutions, bodies,

¹ Available on the EDPS website under Supervision, Thematic Guidelines.

units and organisational entities. This should be clarified in the privacy statements. While the Head of the Unit Resources is a good contact point for inquiries from data subjects, the legal responsibility of the controller rests with EFCA as an agency.

Information to data subjects

The notification and the privacy statement both mention a number of possible recipients of personal data, such as the OLAF and the European Ombudsman. For your information, with regard to Article 2(g) of the Regulation, authorities which would only receive data in the context of specific targeted inquiries are not considered "recipients" and do not *need* to be mentioned in the privacy statement.²

Conclusion

The EDPS considers that there is no reason to believe that there is a breach of the provisions of the Regulation provided that the considerations contained in this Opinion are fully taken into account. In particular, the EFCA should add information to the privacy statement that the EFCA as an agency is the controller.

The EDPS expects the EFCA to implement the recommendations accordingly and will close the case.

Thank you for your cooperation.

Yours sincerely,

(signed)

Giovanni BUTTARELLI

Cc: Ms Rieke ARNDT, Data Protection Officer - EFCA

² This is an exception to the information obligations in Article 11 and 12, but not to the rules on transfers in Articles 7 to 9. In practice, this means that authorities such as the OLAF, the European Ombudsman or the EDPS do not need to be mentioned in the privacy statement (unless the processing operation in question involves transfers to these organisations as part of the procedure); however, the applicable rules on transfers will always need to be respected.