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Subject: Prior checking notifications concerning staff evaluation

Dear Ms Calvo Fuentes,

I refer to the notification for prior checking concerning evaluation of staff - COMPASS2 submitted to the European Data Protection Supervisor (EDPS) by the Data Protection Officer (DPO) of the European Court of Auditors (ECA) on 30 July 2013.

We note that this notification is meant to update the notification on COMPASS submitted on 16 June 2005¹ as new general implementing rules have been adopted².

As the revised evaluation procedure is in most aspects in compliance with Regulation (EC) N° 45/2001³ (the Regulation) as outlined in the EDPS Staff Evaluation Guidelines⁴, we will only address the existing data conservation practices which do not seem fully compliant in this respect.

According to the information provided in the notification, only the last three evaluation reports are kept in COMPASS/COMPASS2, whereas the digital copies in SYSPER2 and paper personal files are kept for 120 years after the birth of the staff member concerned or eight years after the last payment to the survivors.

¹ And analysed in the Opinion of 19 July 2005 (EDPS 2005-152).

² ECA Decision No 12-2012 laying down general provisions for implementing Article 43 of the Staff Regulations-Periodic staff evaluation procedure -COMPASS- "Competence & Performance Appraisal System".

³ 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.

⁴ EDPS Guidelines on the processing of personal data in the area of staff evaluation of 15 July 2011 (EDPS 2011-042).

Article 4(1)(e) of the 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 notes that no sufficient evidence was provided to demonstrate the necessity of the lengthy storage extending to the whole career at the ECA. Therefore, we invite the ECA to reconsider the existing time limit or to provide precise justifications in this respect.

In conclusion, the EDPS considers that there is no reason to believe that there is a breach of the Regulation provided that the considerations contained in this Opinion are fully taken into account. In particular, the ECA should reconsider the existing time limit for conservation of the evaluation reports in SYSPER2 or provide for precise justifications of the necessity to keep the evaluation reports for 120 years after the birth of the person concerned as well as eight years after the last payment to the survivors.

We would like to invite the ECA to inform us about the implementation of these recommendations within three months after receipt of this Opinion.

(signed)

Giovanni BUTTARELLI
(signed)

Cc: Mr Johan VAN DAMME, Data Protection Officer