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ASSISTANT SUPERVISOR

[...]
Head of Unit Secretariat of the
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[...]

Brussels, 20 July 2015
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correspondence

Subject: Prior-check opinion on the pre-selection procedure for the post of the Director of FRA

Dear [...],

On 9 June 2015, the Data Protection Officer (DPO) of the European Parliament has notified the European Parliament's participation in the nomination of the Director for the European Union Agency for Fundamental Rights to the European Data Protection Supervisor (EDPS) for prior-checking under Article 27 of Regulation (EC) No. 45/2001 (the Regulation).

This notification to the EDPS was done "ex-post", i.e. after the processing had started.¹ As stated in our letter to all Institutions of 5 July 2012 (our case reference 2012-0557) and repeated on numerous occasions, **all** notifications relating to existing procedures involving the processing of personal data likely to present specific risks should have been submitted to the EDPS by the 30 June 2013. For this reason, the deadline of Article 27(4) Regulation does not apply.

In principle, this ex-post notification should nevertheless not have consequences on the validity of administrative procedures.

While the processing notified does not directly fall under the scope of the EDPS Guidelines on selection and recruitment procedures², it is sufficiently similar for these Guidelines to be applied by analogy. This Opinion therefore will not contain a full analysis of the procedure,

¹ The procedure has been used during the last appointment procedure for the Director of the European Union Agency for Fundamental Rights between September 2007 and February 2008. While the reason for notifying it now was the upcoming selection procedure for this post, this does not change the fact that the procedure as such already existed before.

² Available on the EDPS website

but will focus on those aspects that diverge from standard practice and/or require improvement.

Description and assessment

Conservation periods

Concerning the conservation periods the notification indicated a period of six months from the date of the hearing in the LIBE Committee. Afterwards, documentation may be kept for historical purposes.

Concerning the possible further use for historical purposes, the EDPS would like to refer to the principles relating to such further use in Article 4(1)(b) of the Regulation. The controller has to provide appropriate safeguards, in particular to ensure that the data are not used for any other purposes or in support of measures or decisions concerning particular individuals.

Conclusion

Based on the information provided, the EDPS has no reason to believe that the procedure breaches the Regulation. We have therefore decided to **close case 2015-0500**.

Kind regards,

(signed)

Wojciech Rafał WIEWIÓROWSKI

CC: [...], DPO, European Parliament