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Brussels, 10 March 2016  
**C 2013-1354**

**Subject: Prior-check Opinion on internal mobility at the European Aviation Safety Agency – Case 2013-1354**

On 2 December 2013, 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 the procedure for internal mobility from the European Aviation Safety Agency ("**EASA**").

As this is an ex-post prior check, the two-month deadline within which the EDPS must deliver his opinion does not apply. This case has been dealt with on a best effort basis.

While the processing notified does not fall directly under the scope of the EDPS Guidelines on selection and recruitment procedures<sup>1</sup>, it is sufficiently similar for these Guidelines to be applied by analogy. This Opinion will therefore not contain a full analysis of the procedure, but will focus on those aspects where the processing operation diverges from the Guidelines or otherwise needs improvement.

## **Legal analysis**

### Data quality

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<sup>1</sup> [Guidelines concerning the processing operations in the field of staff recruitment](#)

In accordance with Article 4.1(c) of the Regulation, personal data must be "*adequate, relevant and not excessive in relation to the purposes for which they are collected and/or further processed*".

On the basis of the information provided, the personal data processed seem adequate and not excessive for the internal mobility procedure at EASA. However, there is a possibility that staff members voluntarily submit information which is not necessary for the processing operation at hand. Personal data and in particular special categories of data that are not relevant for the purposes of managing internal mobility should not be further processed for the evaluation of the staff members in this context.

### ***Reminder***

1. EASA should ensure that staff members are aware of the data quality requirements.

### **Data retention**

Article 4.1(e) of the Regulation provides that data must 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.*"

According to the information provided in the notification and the data protection notice, data of applicants (CV and motivation letter) are kept for 10 years after the closure of the procedure. Data of transferred staff (decision of the Executive Director) are kept for 120 years from the staff member's birth date since it is part of the personal file. Staff members applying for internal mobility are retained in the internal mobility register<sup>2</sup> until the transfer is arranged or until the staff member withdraws the request.

Firstly, the EDPS would like to underline the need to differentiate between applicants who have been selected for an internal transfer and those who have not been selected. In various opinions the EDPS has accepted a retention period of personal data of unsuccessful applicants for two years following the recruitment procedure (in this case, the internal mobility procedure) as that period was derived from the length of time during which a complaint may be brought to the European Ombudsman. In view of the above, EASA should establish different conservation periods depending on whether an applicant is transferred or not.

Secondly, as the EDPS recommended in his Guidelines on staff recruitment, personal data should be stored in personal files<sup>3</sup>, for a period of ten years as of the termination of employment or as of the last pension payment. In light of Article 4.1(e) of the Regulation, the EDPS has always considered a retention period of 120 years from the staff member's birth date as excessive and unnecessary to the purpose for which personal data are collected and further processed. The EDPS highlights that the issue of the retention period of personal files is a pending issue subject to on-going discussions between the EDPS and the EU institutions, and that EASA will be duly informed of the outcome of these discussions.

Finally, EASA should provide a time limit after which the applicants are removed from the internal mobility register unless they express a wish to remain in the register.

### ***Recommendation***

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<sup>2</sup> An excel table only used by HR staff in charge of the mobility procedure.

<sup>3</sup> Article 26 of the Staff Regulations.

2. EASA should align the retention periods with the EDPS guidelines; differentiate between successful and unsuccessful applicants; and provide a time limit after which applicants are removed from the internal mobility register unless they express the wish to remain in the register.

### **Conclusion**

The EDPS considers that there is no reason to believe that there is a breach of the provisions of the Regulation. In light of the accountability principle, the EDPS trusts that EASA will fully implement all recommendations included in this Opinion.

We have therefore decided to close the case.

Kind regards,

**(signed)**

Wojciech Rafał WIEWIÓROWSKI

Cc: Data Protection Officer, EASA