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ASSISTANT SUPERVISOR

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WW/SS/mv/ D(2016)1579 C 2016-0492
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**Subject: Prior-checking Opinion regarding e-recruitment at Community Plant Variety
Office (CPVO) (EDPS case 2016-0492)**

Dear Mr. Godinho,

On 01 June 2016, the European Data Protection Supervisor (EDPS) received a notification for prior checking under Article 27 of Regulation (EC) No 45/2001¹ ("the Regulation") on the e-recruitment procedure from the Data Protection Officer (DPO) of the CPVO.²

The CPVO had previously notified for prior checking the selection and recruitments procedures for officials (EDPS case 2006-0351), temporary staff (EDPS case 2008-0315) and trainees (EDPS case 2011-0214), to which the EDPS issued his opinions³.

The CPVO has since changed its procedures to include the selection and recruitment of contract agents and the use of electronic recruitment platform provided by external contractors (processor and sub-processor) based in the EEA. Consequently, the CPVO sent one new notification for prior-checking on the e-recruitment procedure to the EDPS as an update and replacement of the previous notifications on the selection and recruitments procedures.

The EDPS has issued Guidelines concerning the processing of personal data for staff selection and recruitment⁴ ("the Staff recruitment guidelines"). Therefore, this Opinion analyses and

¹ OJ L 8, 12.1.2001, p. 1.

² According to Article 27(4) of the Regulation, the EDPS has to provide his Opinion within two months of receiving the notification, not counting suspensions. The case was suspended for 1 day on 10/06/2016. The EDPS shall thus render his Opinion by 01/08/2016.

³ See EDPS opinions of 02/02/2007 in case 2006-0351, 20/02/2009 in case 2008-0315 and 01/06/2011 in case 2011-0214.

⁴ Available on the EDPS website:

https://secure.edps.europa.eu/EDPSWEB/webdav/site/mySite/shared/Documents/Supervision/Guidelines/08-10-10_Guidelines_staff_recruitment_EN.pdf

highlights only those practices which do not seem to be in conformity with the principles of the Regulation and with the Guidelines. In the light of the accountability principle guiding his work, the EDPS would nonetheless like to highlight that *all* relevant recommendations made in the Guidelines apply to the processing operations put in place for staff selection and recruitment at the CPVO.

1. **Facts and analysis**

Articles 11 and 12 of the Regulation provide a minimum list of information that need to be provided to the candidates (data subjects).

The privacy statement states in point 3 that the purpose of the processing is the management of application(s) submitted by the candidates in view of possible pre-recruitment for recruitment or traineeships at the CPVO. However the notification states in point 9 that the e-recruitment tool allows Human Resources Service to manage the entire recruitment process electronically, from the receipt of applications to the final recruited candidate.

The EDPS **recommends** updating point 3 of the privacy statement to reflect the fact that the e-recruitment procedure is used during the whole selection procedure, not just pre-selection.

The privacy statement lists the legal bases for the selection and recruitment of officials, temporary agents and contractual agents, but not for the trainees.

The EDPS **recommends** completing point 4 of the privacy statement with the CPVO decision laying down on traineeships at the CPVO. The notification should also be completed with the same information.

The privacy statement informs candidates that the CPVO has outsourced specific tasks, namely, management of applications for job offers. From the information provided in the notification and the documents relating to the contractual relationship with the external contractor, the external contractor is in fact not managing the applications for job offers, but provides a software as a service cloud computing solution (the e-recruitment platform and storage on its servers and the IT administration and support for the e-recruitment platform).

The EDPS **recommends** clarifying in point 5 of the privacy statement that the external contractor provides e-recruitment platform (software as a service cloud computing solution) as the task that the CPVO has outsourced.

It is good practice to indicate any further information that could be helpful to the candidates. Particularly important for candidates is information on time limits and other limitations applicable to the exercise of their rights and on the time limits within which a reaction can be expected⁵. The Staff recruitment guidelines and the Guidelines on the rights of individuals⁶ provide more detailed guidance in this respect.

The privacy statement does not appear to inform the candidates of any time limits and other limitations for requests and responses.

⁵ E.g. for access to evaluation results in different stages of the selection procedure (pre-selection, interview, written tests); in terms of deadlines to reply, the Regulation provides some specific rules: three months for access request, without delay for rectification, etc.

⁶ Available on the EDPS website:

https://secure.edps.europa.eu/EDPSWEB/webdav/site/mySite/shared/Documents/Supervision/Guidelines/14-02-25_GL_DS_rights_EN.pdf

The EDPS **recommends** indicating in point 8 of the privacy statement time limits and other limitations for the exercise of the candidates' rights and the time limit within which the controller will react to data subjects' requests for blocking or erasure of their personal data.

2. Conclusion

In this Opinion, the EDPS has made several recommendations to ensure compliance with the Regulation, as well as several suggestions for improvement. Provided that the recommendations listed are implemented, the EDPS sees no reason to believe that there is a breach of the Regulation:

1. Update point 3 of the privacy statement to reflect the fact that the e-recruitment procedure is used during the whole selection procedure not just pre-selection
2. Complete point 4 of the privacy statement with the CPVO decision laying down on traineeships at the CPVO. The notification should also be completed with the same information.
3. Clarify in point 5 of the privacy statement that the external contractor provides the e-recruitment platform (software as a service cloud computing solution) as the task that the CPVO has outsourced.
4. Indicate in point 8 of the privacy statement time limits and other limitations for the exercise of the data subject's rights and the time limit within which the controller shall react to data subjects' requests for blocking or erasure of their personal data.

In light of the accountability principle, the EDPS expects the CPVO to implement the above recommendations accordingly and has therefore decided to **close the case**.

Yours sincerely,

(signed)

Wojciech Rafał WIEWIÓROWSKI

cc.: Mr. Gerhard SCHUON, DPO, CPVO