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correspondence

Subject: Updated prior-check notifications on management of traineeships at the EESC

Dear [...],

On 29 June 2016, the data protection officer (DPO) of the European Economic and Social Committee (EESC) notified an update of the procedures for the management of traineeships at the EESC to the European Data Protection Supervisor (EDPS). The management of traineeships at the EESC had initially been notified as EDPS cases 2005-0297 (paid traineeships) and 2009-0701 (short-term traineeships). The updated notification merges and replaces these two procedures.

According to the cover note provided, the main change with an impact on data protection is a change in the **conservation period** for the data of recruited trainees. Following an internal audit recommendation, the EESC wants to extend the period to five years after the start of the traineeship period for selected trainees. The reason given is that having been a paid trainee in an EU institution is an exclusion criterion for further traineeships. The traineeship office needs to keep some information in order to be able to verify if a person has done a traineeship with the EESC. Data of non-selected trainees will be kept for two years for administrative reasons (e.g. correspondence with applicants) and in view of possible complaints to the European Ombudsman.

In our guidelines on recruitment¹, we have accepted a conservation period of five years from discharge for financial documents, as well as a longer conservation for the limited information that is necessary to re-issue traineeship certificates. The proposed change in EESC's practice is compliant with this guidance.

¹ Available here:

https://secure.edps.europa.eu/EDPSWEB/webdav/site/mySite/shared/Documents/Supervision/Guidelines/08-10-10_Guidelines_staff_recruitment_EN.pdf, notably page 6.

The draft updated traineeship decision contains (Article 1.2.3) a provision obliging selected trainees to provide an extract of their **criminal record**. The notification justifies this by reference to Article 28 of the Staff Regulations. This continues existing practice at the EESC.

It should however be noted that the Staff Regulations do not apply to trainees. Therefore, Article 28 of the Staff Regulations cannot be used as an authorisation in the sense of Article 10(5) of Regulation (EC) 45/2001² ("the Regulation") for processing such special data about trainees.

However, if justified by the specific needs or activities of the institution, an extract of the criminal record may be requested for trainees.³ If institutions wish to do this, they should adopt a clear legal basis and provide sufficient justification as to why the specific needs or activities necessitate the collection of a criminal record also from trainees. A general reference to the activities of the institution is not sufficient; the collection has to be justified in reference the specific tasks to be carried out by the trainees.

The draft decision on traineeships refers explicitly to the collection of a criminal record; however, there is no explanation regarding the specific needs or activities that necessitate the collection of a criminal record also from trainees. It should also be noted that many other EU institutions do not collect criminal records from trainees.⁴

In the light of this, the EDPS **recommends the EESC to either stop collecting criminal records from trainees, or to provide justification related to the specific tasks to be carried out by the trainees**. Provided that this recommendation is taken into account, the EDPS sees no reason to believe that there is a breach of the Regulation.

Please report back on the implementation of this recommendation within three months of receipt of this Opinion.

Yours sincerely,

[signed]

Wojciech Rafał WIEWIÓROWSKI

Cc: [...], DPO, EESC
[...], Member of the Legal Service, EESC

² OJ L 8/1, 12/01/2001.

³ EDPS Opinion of 9 October 2010 on "Visiting positions as invited persons or unpaid visiting scientists or structural trainees for defined period of time at the JRC" (case **2007-0737**)

⁴ See e.g. data protection notices for the European Commission and European Parliament traineeship programmes: https://ec.europa.eu/stages/sites/stages/files/specific-privacy-statement_en.pdf & <http://www.europarl.europa.eu/pdf/traineeships/Declaration-Stagiaires-EN.pdf>