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**C 2015-0760**  
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**Subject: Prior check Opinion on Selection, recruitment and management of bluebook trainees in REA - Case 2015-0760**

On 17 September 2015, 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 selection, recruitment and management of bluebook trainees, from the Data Protection Officer of the Research Executive Agency ("**REA**").

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.

Since the EDPS has already issued Guidelines on staff selection and recruitment<sup>1</sup>, the present Opinion will focus on those aspects where the processing operations diverge from the Guidelines or otherwise need improvement.

### **Legal analysis**

#### Grounds for prior checking

This processing operation is subject to prior checking in conformity with Article 27.2(b) of the Regulation, since it involves an evaluation of the applicants' ability to perform the traineeship functions for which the selection and recruitment procedures have been organised. Moreover, the processing operation might also involve the processing of data related to health and disability, which constitutes an additional ground for prior-checking in the light of Article 27.2(a) of the Regulation.

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<sup>1</sup> [Guidelines concerning the processing operations in the field of staff recruitment](#), available on the EDPS website under Supervision, Thematic Guidelines.

The notification mentions Article 27.2(b), but not Article 27.2(a) as grounds for prior checking. Furthermore, the notification refers in this context to Article 27.2(d), “*processing operations for the purpose of excluding individuals from a right, benefit or contract*”. However, the purpose of the present processing operation is not to exclude candidates from a right, benefit or a contract, but rather to select and recruit candidates for the traineeship and manage the same.

### ***Recommendation***

The notification should be updated with regard to the grounds for prior checking in order to reflect the above.

### **Data retention**

According to the notification, data regarding non-recruited applicants will be kept for a period of maximum two years. However, it is not clear from the notification which date constitutes the starting period for the storage. In accordance with the EDPS Guidelines, in the case of pre-selected but not recruited candidates, the starting date for computing the storage period (*dies a quo*) should be the immediate official starting date of the traineeship period (and not the end of the traineeship period to which the application relates).

Furthermore, sensitive data, such as data on health or disability should be deleted once they are no longer necessary for recruitment purposes and management of sick leave.

### ***Recommendation***

The calculation of the starting period for the retention should be clarified in accordance with the above, and sensitive data should be deleted as soon as they are no longer necessary.

### **Conclusion**

The EDPS considers that there is no reason to believe that there is a breach of the provisions of the Regulation provided that the considerations and recommendations contained in this Opinion are fully taken into account.

In light of the accountability principle, the EDPS expects REA to implement the above recommendations accordingly and has therefore decided to **close the case**. Please do not hesitate to contact us, should you have any questions.

Yours sincerely,

Wojciech Rafał WIEWIÓROWSKI

Cc: Data Protection Officer, REA