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Subject: Prior-checking Opinion on the European Parliaments Whistleblowing procedure (EDPS case 2017-0379)

Dear [...],

On 6 April 2017, 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 whistleblowing procedure at the European Parliament (“EP”) from the Data Protection Officer (“DPO”) of the EP.²

The EDPS has issued Guidelines on how to process personal information within a whistleblowing procedure (“the Guidelines”).³ Therefore, the description of the facts and of the legal analysis will only mention those aspects which differ from these Guidelines or otherwise need improvement. 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 whistleblowing at the EP.

EDPS recommendations and reminders are highlighted in bold below.

1. Avoid processing of excessive personal information

According to Article 4(1)(c) of the Regulation, data must be adequate, relevant and non-excessive in relation to the purposes for which the personal data is collected and/or further processed.

¹ OJ L 8, 12.1.2001, p. 1.

² As this is an ex-post case, the deadline of two months does not apply. This case has been dealt with on a best-effort basis.

³ Guidelines on processing personal information within a whistleblowing procedure, available at: https://edps.europa.eu/sites/edp/files/publication/16-07-18_whistleblowing_guidelines_en.pdf

There is a possibility that the EP, perhaps involuntarily, receives information from the whistleblower that is of no interest/relevance to the investigation, also concerning special categories of data. This kind of information should not be further processed, requiring to do a first check of the reports as soon as possible. The EDPS welcomes the fact that the Privacy Statement mentions that recipients (Head of Unit concerned, the relevant Director or the Director-General and the Secretary-General) are reminded that only data which is strictly and objectively necessary to verify the allegations made may be further processed and only for the purpose for which they were transmitted. However, this also concerns case officers handling the files. **The EP should therefore ensure that all staff members involved in a case are aware of the data quality requirements.**

2. Information to be given to the data subjects

Information to data subjects is provided through the Decision of the Secretary-General of the EP on the internal rules as well as in the Specific Privacy Statement available on the EP's intranet. In the notification under point 7 it is further mentioned that a copy of both documents should be given to individuals who make a report. This is certainly a positive measure, but it should be applicable to all persons affected and not only to the whistleblower. **The EP should therefore provide this information to all individuals who are affected by a particular whistleblowing procedure as soon as practically possible**, unless an exception in Article 20(1) of the Regulation applies.⁴

3. Ensure confidentiality of all persons implicated in a whistleblowing report

The EDPS welcomes the fact that the EP takes various measures to protect the whistleblower. In relation to this, **the EDPS reminds the EP that the accused person should be protected in the same manner as the whistleblower.** The reason is the possible risk of stigmatisation and victimisation of that person within the organisation to which they belong. The accused persons will be exposed to such risks even before they are aware that they have been incriminated and before the allegations have been investigated to determine whether they are substantiated.

4. Security measures

[...]

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In light of the accountability principle, the EDPS trusts that the EP will ensure that these considerations and recommendations are fully implemented. The EDPS has therefore decided to **close case 2017-0379.**

Yours sincerely,

(signed)

Wojciech Rafał WIEWIÓROWSKI

Cc: [...] Data Protection Officer, EP

⁴ See page 7 of the EDPS Guidelines on Whistleblowing.