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C 2016-0695

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Subject: Prior check opinion regarding automated vehicle license plate recognition at the European Central Bank (Case 2016-0695)

Dear [...],

On 29 July 2016, the European Data Protection Supervisor ('EDPS') received a notification for prior checking under Article 27 of Regulation (EC) No 45/2001 ('the Regulation') on the automated vehicle license plate recognition system ('the recognition system') from the Data Protection Officer ('DPO') of the European Central Bank ('ECB').²

The EDPS has issued Guidelines on video-surveillance ('the Guidelines').³ Therefore, this Opinion analyses and highlights only those practices that do not seem to be in conformity with the principles of the Regulation and with the Guidelines. In the light of the accountability principle, the EDPS would nonetheless like to stress that *all* relevant recommendations made in the Guidelines apply to video-surveillance at the ECB.

The notification only relates to the automated vehicle license plate recognition system at the entrance to the staff garage at the ECB main building. Other use of CCTV at the ECB is excluded from the scope.⁴

The EDPS took into account that the ECB video-surveillance policy submitted as an annex to the notification should be considered as a draft.

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. The EDPS has dealt with this case on a best-effort basis.

³ Guidelines video-surveillance, available at the following link:

https://edps.europa.eu/sites/edp/files/publication/10-03-17_video-surveillance_guidelines_en.pdf

⁴ See e.g. EDPS case 2015-0938.

1. Lawfulness of the processing

As grounds for lawfulness, the ECB has stated that the processing of personal information is based on Article 5(d) of the Regulation, i.e. consent of the data subject. However, the EDPS notes that the processing operation is lawful under Article 5(a) of the Regulation,⁵ since the recognition system is put in place in order to control the access of vehicles to the premises of the ECB, as part of the security and safety concept of the ECB.⁶ The recognition system aims at ensuring that only registered vehicles of ECB staff members are granted access to the ECB Main Building premises where the ECB staff parking area is located.

2. Information to be given to the data subjects

Articles 11-12 of the Regulation require that the controller provide the data subject with information on the processing operation. The Guidelines recommend giving such information through a combination of on-the-spot notices and a detailed data protection notice.

According to the notification, the ECB provides information to data subjects using three different means: (i) a privacy statement posted on the intranet⁷; (ii) general information on parking rules⁸; (iii) on-the-spot notice at the barrier directly in front of the entrance to the staff members' garage.

The notification states under point 6 which categories of personal data are processed. This information is however not mentioned in the privacy statement. For the sake of completeness, the EDPS recommends updating the privacy statement to include all relevant information on the recognition system, including the categories of data. Furthermore, the notification does not specify what information is given through the on-the-spot notice. The EDPS therefore recommends that the ECB ensure that this information is compliant with point 11.2 of the Guidelines.

3. Data retention period

In accordance with Article 4(1)(e) of the Regulation, personal data must not be kept longer than necessary for the purpose for which they are collected or further processed.⁹

The EDPS has considered the issue of retention periods in the light of the different steps of the processing operation. As regards the vehicle registration via the ECB personnel management system in order to have access to the ECB staff members' garage, point 13 of the notification states that the ECB stores personal data related to the security badge and the vehicle registration for the duration of the employment of the staff member and for a period of one year after this relationship has been terminated.

The notification does not specify the reasons for keeping the data for one year after the staff member has left the ECB. By comparison, the European Commission keeps this data for six

⁵ Article 5(a) of the Regulation: "processing is necessary for the performance of a task carried out in the public interest on the basis of the Treaties establishing the European Communities or other legal instruments adopted on the basis thereof or in the legitimate exercise of official authority vested in the Community institution or body or in a third party to whom the data are disclosed"

⁶ See point 5.2 of the Guidelines.

⁷ Annex 3 to the notification.

⁸ Annex 4 to the notification.

⁹ Article 4(1)(e) of the Regulation: "personal 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 are collected or for which they are further processed".

months only after leaving.¹⁰ In an earlier case on iris scans for access to restricted areas, the ECB itself set a period of three months after leaving for keeping badge identification data.¹¹

In the light of these other cases, unless there are justifications for keeping the data for such a long period, the EDPS recommends reducing the retention period for data relating to the security badge and vehicle registration, and updating privacy statement accordingly.

4. Conclusion

The EDPS welcomes the privacy impact assessment carried out by the ECB and the fact that the personal data captured by the cameras of the recognition system are not stored beyond the access procedure and are, as a rule, deleted immediately after the vehicle has been admitted to the staff members' garage.

Provided that the above recommendations are implemented, the EDPS sees no reason to believe that there is a breach of the Regulation.

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

Yours sincerely,

Wojciech Rafał WIEWIÓROWSKI

cc.: [...], Data Protection Officer, ECB

¹⁰ <http://ec.europa.eu/dpo-register/details.htm?id=44001>

¹¹ EDPS case 2007-0501