



EUROPEAN DATA PROTECTION SUPERVISOR

**WOJCIECH RAFAŁ WIEWIÓROWSKI**  
ASSISTANT SUPERVISOR

Head of Unit  
Secretariat of the Committee on Legal  
Affairs  
European Parliament  
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**C 2017-0345**  
Please use [edps@edps.europa.eu](mailto:edps@edps.europa.eu) for all  
correspondence

**Subject: Prior-check Opinion on the European Parliament's participation in the appointment procedure of the Executive Director, the Deputy Executive Director(s), the President of the Boards of Appeal, and the Chairpersons of the Boards of the European Union Intellectual Property Office (Case 2017-0345)**

On 27 March 2017, the European Data Protection Supervisor ('EDPS') received a notification for prior checking under Article 27 of Regulation (EC) No. 45/2001<sup>1</sup> ('Regulation') from the Data Protection Officer ('DPO') of the European Parliament ('Parliament'). The notification concerns the participation of the Parliament in the appointment procedure of the following posts within the European Union Intellectual Property Office ('EUIPO'): (1) Executive Director; (2) Deputy Executive Director(s); (3) President of the Boards of Appeal; (4) Chairpersons of the Boards.

While the processing notified does not fall directly under the scope of the EDPS Guidelines on selection and recruitment procedures<sup>2</sup>, it is sufficiently similar for these Guidelines to be applied by analogy. This Opinion will therefore not contain a full analysis of the procedure, but will focus on those aspects where the processing operation diverges from the Guidelines or otherwise needs improvement.

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<sup>1</sup> OJ L 8, 12.1.2001, p. 1.

<sup>2</sup> [Guidelines concerning the processing of personal data in the field of staff recruitment](#)

## Data subjects

The notification mentions only “candidates for the positions of chairpersons of the 2nd Board of Appeal” as data subjects. The EDPS understands, however, that the data subjects are candidates for all the above-mentioned positions within EUIPO.

## Retention period

The notification indicates that data will be stored until the end of the legislative term in which the appointment procedure takes place. Afterwards, documentation may be kept for historical purposes.

The EDPS recommends that the Parliament set a specific time limit<sup>3</sup>, since the retention period may vary substantially depending on at what point within the legislative term the appointment procedure takes place. Such appointment procedures could also theoretically last over more than one legislative term<sup>4</sup>. As regards the time limit, the Parliament should bear in mind the requirements of Article 4(1)(e) of the Regulation, which provides that 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 were collected or for which they are further processed"*. Furthermore, Article 4(1)(e) provides that *"personal data which are to be stored for longer periods for historical, statistical or scientific use should be kept either in anonymous form only or, if that is not possible, only with the identity of the data subjects encrypted."*

Concerning the possible further use for historical purposes, the EDPS also recalls the principles relating to such further use in Article 4(1)(b) of the Regulation. The controller must provide appropriate safeguards, in particular to ensure that the data are not used for any other purposes or in support of measures or decisions concerning particular individuals.

## Conclusion

Based on the information provided, there is no reason to believe that there is a breach of the provisions of the Regulation. In light of the accountability principle, the EDPS trusts that the Parliament will ensure that the considerations and recommendations contained in this Opinion will be fully implemented.

The EDPS has therefore decided to **close case 2017-0345**.

Yours sincerely,

Wojciech Rafał WIEWIÓROWSKI

Cc: Data Protection Officer, European Parliament

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<sup>3</sup> In a previous similar prior check opinion, the EPDS considered a period of six months from the date of the hearing in the relevant committee as an appropriate retention period (EDPS Opinion 2015-0500 on the pre-selection procedure for the post of the Director of FRA).

<sup>4</sup> See EDPS Opinion 2013-1090 on the selection of the Chair of the Supervisory Board in the context of the establishment of the Single Supervisory Mechanism; and EDPS Opinion 2015-1028 on the European Parliament's appointment procedures of Chairs and Executive Directors of the European Supervisory Authorities.