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... /D(2018)0209 C 2017-0969
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correspondence

Subject: Prior checking opinion on the Council first-aid intervention registers (EDPS Case 2017-0969)

Dear Madam,

On 8 November 2017, the European Data Protection Supervisor (EDPS) received a notification for prior checking under Article 27 of Regulation (EC) No 45/2001¹ ('the Regulation') from the Council Data Protection Officer (DPO)² concerning the staff first-aid intervention register (first-aider record book) and the register of first-aid intervention for the medical service. The purpose of the processing analysed was:

- to assess calls for first-aid intervention in the workplace
- to assess and adapt the organisation of the first-aider network
- to record data for anonymous statistical purposes.

The notification and relevant documents are analysed in the light of the EDPS guidelines concerning data related to health in the workplace ('the guidelines').³ The EDPS will ascertain which of the Council's practices do not appear to comply with the principles set out in the Regulation or in the guidelines and subsequently submit appropriate recommendations to the Council.

¹ OJ L 8, 12.1.2001, p. 1.

² In accordance with Article 27(4) of the Regulation, the EPDS must deliver his or her opinion within two months following receipt of the notification, not counting suspensions. This case was suspended from 10 to 23 November 2017 and from 11 to 22 January 2018. The EDPS therefore delivers this opinion on 25 January 2018.

³ Available on the EDPS website: https://edps.europa.eu/data-protection/our-work/publications/guidelines/health-data-work_en

The Council set up a network of first-aiders based on the Staff Regulations and the rules applicable to other employees of the European Union, and EU and Belgian law in the area of well-being at work. Under Belgian law in that field, which constitutes one of the legal bases of the processing, the employer keeps a register in which the employee who carries out a first-aid intervention indicates the following information:

1. his/her name;
2. the name of the casualty;
3. the place, date and time of the accident or illness and a description of the circumstances thereof;
4. the nature, date and time of the intervention;
5. the identity of possible witnesses.

Irrespective of whether Protocol 7 annexed to the TFEU excludes the application of Belgian law in this matter, it should be noted that such a system could also be based on the Staff Regulations.

The Council decided to set up two different first-aid intervention registers. For each intervention the first-aiders must provide:

- a) a report in the 'staff first-aid intervention register (first-aiders record book)' containing the date and time of his intervention, the 2000 call (security), the place and a description of his intervention.

The report is consulted by nurses during meetings with the members of the first-aiders network. No information contained in the first-aiders record book is shared with the other first-aiders during those meetings. Any comments are shared only between the first-aiders holding the record book and the nurse consulting it.

- b) where the medical service intervenes (on site and/or after transport of the casualty to its premises), a document entitled 'register of first-aid intervention for the medical service' including the date and time of the intervention, the 2000 call (security), the name of the casualty, the place and a description of his intervention.

The first-aiders submit that document to the medical service in a sealed envelope marked 'confidential'. The medical service doctors/nurses store all of those documents in a file and make a copy of each register, which is in turn placed in the individual medical file of the data subject (or in the 'externals' file for external data subjects). By the nature of their jobs, the doctors and nurses of the medical service have access to medical records (the individual file or the 'externals' file) and may consult the copy of the register stored there.

The first-aiders are obliged to sign a non-disclosure agreement. He retains the first-aiders record book in his personal cabinet, which is kept locked.

The Council includes the first-aiders in the recipients of the data in its staff intervention register (first-aiders record book). However, the first-aiders collect those data and submit his report to the person responsible for processing the data. It cannot therefore be considered that he receives the data from the person responsible for processing the data.

Pursuant to Belgian law, one of the elements which the employee who carries out a first-aid intervention must indicate is the identity of possible witnesses. However, the Council did not provide that the identity of possible witnesses must be included in the first-aid intervention register.

The EDPS therefore **recommends** that the Council state, in the notification and the information note on the protection of personal data sent to the data subjects, the recipients to whom the personal data might be disclosed.

In addition, the EDPS **recommends** that the Council evaluate whether further steps would possibly have to be taken to ensure the security of the personal data contained in the first-aider record book. Account must be taken of the sensitive nature of those data and the urgent nature of the work of the first-aider.

In the light of the principle of accountability, the EDPS anticipates that the Council will duly implement the recommendations set out above. Provided that the recommendation is implemented, the EDPS considers that there are no grounds to assume an infringement of the Regulation.

We have therefore decided to **close the case**.

Yours faithfully,

[signed]

Wojciech Rafał WIEWIÓROWSKI

Cc: ..., Council Data Protection Officer