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Subject: Prior-checking Opinion regarding ‘Recruitment of staff: Temporary agents (TAs), Seconded National Experts (SNEs) and trainees’ at Single Resolution Board (SRB) (EDPS case 2017-0851))

Dear [...],

On 4 October 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 ‘Recruitment of staff: Temporary agents (TAs), Seconded National Experts (SNEs) and trainees’ from the Data Protection Officer (DPO) of the Single Resolution Board (SRB).²

The EDPS has issued Guidelines concerning the processing operations in the field of staff recruitment³ (‘the Guidelines’). Therefore, this Opinion analyses and highlights only those practices which do not seem to be in conformity with the principles of the Regulation and with the Guidelines. 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 the ‘Recruitment of staff: Temporary agents (TAs), Seconded National Experts (SNEs) and trainees’ at the SRB.

1.1. Data conservation

According to the notification, data regarding non-recruited TAs and SNEs will be kept for no longer than 2 years from the closure of the recruitment procedure. Data in relation to non-recruited applicants on the ‘reserve lists for appointment’ are kept in terms of validity and extension of the respective lists, and afterwards for 2 years following the expiry of the list’s validity.

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 Available on the EDPS website: https://edps.europa.eu/sites/edp/files/publication/08-10-10_guidelines_staff_recruitment_en.pdf

However, the notification does not refer to a retention timeline for non-selected trainees. In accordance with the EDPS Guidelines, in the case of pre-selected but non recruited candidates, the starting data 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). As a general reminder, the EDPS also recalls that sensitive data of all non-recruited TAs, SNEs and trainee candidates should be deleted as soon as they are no longer necessary.

The EDPS recommends specifying time limits for keeping data of non-selected trainees.

1.2. Information to data subjects

Articles 11 and 12 of the Regulation provide that data subjects must be informed of the processing of data relating to them and list a number of required information items. These items apply in order to guarantee fair processing and transparency. According to the EDPS Guidelines, in the processing operations on staff recruitment, Article 11 applies since data have been provided directly by the data subjects themselves by submitting their application. Article 12 also applies, since data is also obtained from different participants on the selection procedure such as evaluation and marking data provided by the selection panel, or an external company that is in charge of carrying out selection tests.

According to the notification, the applicants for a vacant post at SRB are informed about the data protection rules through the vacancy notice itself, by referring to the application of the Regulation. However, the EDPS has always recommended in his opinions that a data protection statement should be posted on the website in order for all the candidates to be informed on their rights and on the necessary information concerning the processing of personal data before the initiation of the selection procedure. Furthermore, the EDPS also suggests attaching a data protection statement to the vacancy notice containing all the requirements listed in Articles 11 and 12 of the Regulation, in order for the candidates to be informed about their rights and about the processing of their data.

The EDPS recommends drafting a data protection statement including all the requirements under Article 11 and 12 of the Regulation, publishing it on the website and including a link to the data protection statement in the vacancy notices.

2. Conclusion

In this Opinion, the EDPS has made some recommendations to ensure compliance with the Regulation. Provided that the 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 Single Resolution Board to implement the above recommendations accordingly and has therefore decided to **close the case**.

Yours sincerely,

(signed)

Wojciech Rafał WIEWIÓROWSKI

Cc.: [...], DPO, SRB