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Brussels, 25 April 2018
C 2017-0216
Please use edps@edps.europa.eu for all correspondence

Subject: **Prior Checking Opinion regarding the conduct of investigations by the Security Office of the General Secretariat of the Council of the European Union (EDPS Case 2017-0216)**

Dear Sir,

On 21 February 2017, the European Data Protection Supervisor (EDPS) received a notification for prior checking under Article 27 of Regulation (EC) No 45/2001[1] (the Regulation) on the conduct of investigations by the Security Office of the General Secretariat of the Council of the European Union (the Council).

As indicated by the Council's Data Protection Officer (DPO), that notification replaces the one analysed in EDPS Case 2008-0410.[2] Therefore, this opinion examines and highlights only those practices that differ from the earlier notification and that do not appear to comply with the principles of the Regulation.

Having analysed the changes made, a new opinion does not appear to be necessary.

However, the EDPS notes that all the recommendations made in the aforementioned opinion are also valid for the processing as described in the updated notification.

1. **Facts and analysis**

According to the information received, the updated notification on the conduct of investigations by the Security Office of the General Secretariat of the Council primarily concerns 'updating the legal basis, the purpose of the processing and the information note'.

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[1] OJ L 8, 12.1.2001, p. 1.
[2] We have updated our register of notifications accordingly.

1.1. Purpose of the processing and legal basis

The EDPS notes that, according to the updated notification, the purpose of the processing is to 'contribute to the performance of the Security Office's task of protecting individuals, buildings, assets, activities and classified and sensitive information against all acts of violence and malice at the premises of the General Secretariat of the Council and the places where the work of the European Council and the Council is carried out'.

This purpose corresponds to Article 2 of Decision 181/10 of the Secretary-General of the Council on the tasks of the Security Office, and does not appear to be fundamentally different from that described in the earlier notification,[3] for which the legal basis was Decision 198/03, repealed by Decision 181/10.

In that context, the EDPS also takes note of the updated legal basis as described above.

1.2. Confidentiality statement

The EDPS takes note of the updated confidentiality statement annexed to the notification. However, for the sake of completeness, the EDPS recommends that the Council adds the information regarding the legal basis of the processing.

> The EDPS recommends that the Council add to the confidentiality statement the information regarding the legal basis of the processing (in particular a reference to Decision 181/10 of the Secretary-General of the Council on the tasks of the Security Office).

2. Conclusion

In this letter, the EDPS has made a recommendation to ensure compliance with the Regulation. Provided that the Council takes account of that recommendation, the processing is compatible with the provisions of the Regulation.

The EDPS therefore entrusts the Council with the implementation of that recommendation and decides to **close the case**.

The EDPS informs you that the register of notifications will be updated.

Yours sincerely,

(signed)

Wojciech Rafał WIEWIÓROWSKI

cc: Data Protection Officer

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[3] 'To investigate and prosecute criminal offences and to investigate and report breaches of the Council's security regulations, whether committed by negligence or with the intention of compromising classified information. Secondly, ... to prevent the various breaches and acts of negligence, disclosure and compromise mentioned above.'