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Brussels, 1 June 2015
WW/OL/mv/D(2015)0911 C 2014-1103
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correspondence

Subject: CEPOL's notification under Article 27 of Regulation (EC) 45/2001 concerning selection and recruitment of temporary and contract agents

Dear [...],

On 27 November 2014, the European Data Protection Supervisor (EDPS) received a notification for prior checking under Article 27 of Regulation (EC) 45/2001 (the Regulation)¹ concerning selection and recruitment of temporary and contract agents at CEPOL.

While CEPOL's letter was dated 8 October 2014, it only arrived at the EDPS on 27 November 2014. On 17 December 2014, the EDPS requested further information, which was provided on 13 March 2015. As the notification was submitted ex-post, i.e. after the processing operations were already in place, the deadline of Article 27(4) of the Regulation does not apply. This case has been dealt with on a best-effort basis.

As the EDPS has already issued Guidelines on staff recruitment procedures², the EDPS will only focus on those aspects that diverge from the recommendations in the Guidelines or otherwise could benefit from improvement.

The notification form and the data protection notice (included in the vacancy notice) do not provide the same information: the data protection notice mentions the conservation period for shortlisted, but not recruited, candidates, which is absent from the notification form. That being said, the periods are appropriate and applicants are made aware of them via the notice in the application form.

Neither the notification form, nor the data protection notice mention the **assessment made by the selection committee** as a category of personal data processed. Unlike most of the data

¹ OJ L 8/1, 12/01/2001

² Guidelines concerning the processing operations in the field of staff recruitment, 10 October 2008; available on the EDPS website.

categories processed, this category of data is not directly provided by the applicant and thus falls under Article 12, not Article 11 of the Regulation in terms of information obligations. For this reason, it **should be specifically mentioned as a category of data processed**.³

Finally, a formal point: the notification form indicated only Article 27(2)(a) (processing of certain special categories of data) as the reason for submitting it for prior checking. However, Article 27(2)(b) on evaluation of data subjects is applicable here as well.⁴

Provided that the recommendation made in bold is implemented, there is no reason to believe that there is a breach of the Regulation. The EDPS expects CEPOL to implement this recommendation and has accordingly decided to **close case 2014-1103**.

Thank you for your cooperation,

Yours sincerely,

(signed)

Wojciech Rafał Wiewiórowski

CC: [...], Data Protection Officer, CEPOL

³ Articles 11 deals with situations where information has been directly obtained from the data subject, such as the data included in the application form; in this case, it is not necessary to include a list of the data categories in the information provided to the applicant, as s/he will be aware of the data s/he provided. Article 12 deals with situations in which data are collected from other sources and where the data subject is not necessarily aware of the kind of data and the content being collected. In this case, a list of the data categories has to be provided, where the data subject does not already have it (Article 12(1)(c) of the Regulation). In the case at hand, this concerns the assessment by the selection committee. See p. 8 of the Guidelines on possible restrictions of the right of access in this context.

⁴ See p. 1 of the Guidelines. That being said, this is a purely formal point.