

DATA PROTECTION OFFICER

Parma, 13 March 2013

Ref.: DPO/2013

Mr. Giovanni Buttarelli
Assistant European Data
Protection Supervisor

Rue Wiertz 60
B – 1047 Brussels

e-mail : edps@edps.europa.eu

Dear Mr. Buttarelli,

Subject: Compliance check with EDPS Guidelines concerning the processing of personal data in the area of Leave and Flexileave (case 2012-0158)

By means of this letter, we would like to confirm that EFSA has carried out a complementary data protection compliance check, taking account of the Guidelines concerning the processing of personal data in the area of Leave and Flexileave, issued by EDPS in December 2012 (case 2012-0158). It is important to consider the state of play on the notification process of EFSA in this area, more in particular the following elements:

- The fact that a prior checking Opinion of EDPS has been issued previously for EFSA ('EFSA leave management') on 01 December 2009 (case 2009-0455) ;
- The fact that EFSA followed up on the conclusions of this prior checking Opinion and submitted a follow-up report to the EDPS in early June 2012. Subsequently, EDPS has closed the case by means of a letter to the DPO, dated 07 June 2012.

The complementary compliance check on the occasion of the EDPS guidelines was carried out in cooperation between the Human Capital and Knowledge Management Unit of EFSA (HUCAP) and the DPO as reported below.

It is relevant to add that the present report does *not* cover the issue of 'badge use as an information tool to staff on office presence in the context of time tracking', which is currently in progress as an ex ante prior checking matter (EDPS case 2013-0171).

The points below follow the sequence of the relevant EDPS Guidelines:

Need for prior checking and lawfulness of processing:

We consider that these aspects have been addressed and were settled in an appropriate manner previously in the context of the prior checking notification and follow-up carried out. There is no relevant further information in this regard.

Processing of special categories of data:

The electronic workflow for leave management currently applied in EFSA, continues to incorporate all the features referred to in the context of the prior checking notification made in 2009 and the EFSA follow-up report of June 2012. In this regard we would like to reiterate that justification documents related to sick leave and special leave are directly forwarded to the HUCAP Unit and that the line manager only receives a notification by e-mail on the requests with the dates, without the leave details and without the line manager receiving justification documents attached to the electronic system. For certified sick leave requests, the system displays in the attachment section the following warning message intended for data subjects: *“In order to ensure the confidentiality of health data, please be aware that attachments may not contain any reference to the personal health situation, nor contain medical data or health diagnosis information of the data subject.”*

Data quality:

Regarding the data quality requirement, there are no further points to be mentioned in addition to the issues dealt with in the context of the prior checking Opinion case 2009-0455.

As concerns special leave for the participation in competitions, we only would like to confirm that, conform the EDPS guidelines, EFSA only processes the invitation to the competition and the attestation of presence.

Data retention:

There are no further points to be restated on the retention period of various leave documents in addition to the declarations settled in the context of the prior checking Opinion case 2009-0455:

- Parental and Family leave requests are stored until the leave entitlements are exhausted plus an additional two years before being disposed of ;
- CCP and part-time work requests are only disposed of after the staff member is deceased and pension payment to descendents ends.

Data transfers:

In follow-up to the recommendations of the EDPS on the occasion of the prior checking Opinion case 2009-0455, EFSA has adjusted the data transfers in the way

as was indicated in the follow-up report of June 2012. Following a reorganisation of the HUCAP Unit, additional unit staff is now in charge of leave management follow-up assuming the role of 'HR partner'. Instead of 3 HUCAP staff members assuming the role of HR partner as mentioned in the follow-up report of June 2012, the number has now increased to 6.

Change of purpose/compatible use:

There are no specific points to be raised on this aspect.

Rights of the data subject:

There are no specific points to be restated in addition to what already has been addressed in the context of prior checking Opinion case 2009-0455. EFSA plans a further sophistication of the electronic leave workflow with a view of optimising its user-friendliness.

Information to data subjects:

The EFSA consolidated rules on leave provided to EDPS in the context of the prior prior checking notification case 2009-0455 are still in force. This document contains a data protection notice conforming the requirements of the Regulation.

Security measures:

There are no specific points to be raised. We confirm that all HUCAP staff members have signed a confidentiality declaration based on the template provided to the EDPS on the occasion of previous prior checking cases of EFSA in the area of human resources management.

We hope that this confirmation is reassuring on the adequate level of compliance of EFSA with data protection requirements in this area, particularly in consideration of the guidelines (case 2012-0158) which the EDPS has issued.

Yours sincerely,

[signed]

Claus Reunis
Data Protection Officer

Cc: Alessia Vecchio, Gianfranco Stefanelli (HUCAP)
Dirk Detken (LRA)