



EUROPEAN DATA  
PROTECTION SUPERVISOR

GIOVANNI BUTTARELLI  
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Mr Pierre-Antoine Barthelemy  
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Brussels, 10 September 2013  
GB/OL/sn D(2013)2003 C 2013-0799  
Please send all correspondence to:  
[edps@edps.europa.eu](mailto:edps@edps.europa.eu)

Dear Mr Barthelemy,

On 28 June 2013, the Data Protection Officer (DPO) at the European Parliament (EP) submitted to the European Data Protection Supervisor (EDPS) a notification for prior checking pursuant to Article 27 of Regulation (EC) No 45/2001 ('the Regulation'). The notification relates to the processing of personal data in the course of the EP's recruitment procedure for interim staff. On 16 July 2013, the EDPS requested supplementary information, which was provided on 19 July 2013.

As the EDPS has previously published guidelines concerning recruitment procedures on 10 October 2008<sup>1</sup>, this Opinion will focus solely on the aspects which deviate from the guidelines.

The notification presents photographs of interim members of staff on file (either provided by the candidates themselves on their CVs or taken by the EP to produce entry passes) as a sensitive category of data under Article 10 of the Regulation. The EDPS takes the view that it is the use of the photographs, and not the photographs themselves, which will or will not categorise the data as special within the meaning of Article 10. That approach is also the approach followed by the Article 29 Working Party in its Opinion on facial recognition in online and mobile services<sup>2</sup>. The Article 29 Working Party is of the view that digital images

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<sup>1</sup> [https://secure.edps.europa.eu/EDPSWEB/webdav/site/mySite/shared/Documents/Supervision/Guidelines/08-10-10\\_Guidelines\\_staff\\_recruitment\\_EN.pdf](https://secure.edps.europa.eu/EDPSWEB/webdav/site/mySite/shared/Documents/Supervision/Guidelines/08-10-10_Guidelines_staff_recruitment_EN.pdf).

<sup>2</sup> [http://ec.europa.eu/justice/data-protection/article-29/documentation/opinion-recommendation/files/2012/wp192\\_en.pdf](http://ec.europa.eu/justice/data-protection/article-29/documentation/opinion-recommendation/files/2012/wp192_en.pdf), p. 5.

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which are representations of individuals may be regarded as a special category of data ‘where digital images of individuals [in question] or templates are further processed to derive special categories of data [...]. For example, if they are going to be used to obtain ethnic origin, religion or health information [about the people concerned]’. Therefore, the EDPS does not consider photographs of staff to be special categories of data.

As for the declaration concerning data protection, the EDPS is keen to point out that use of the form in question, to exercise the rights of the people concerned, cannot be mandatory. Such a form may be a means of making the processing of applications easier, but the fact that an individual does not use it cannot in itself trigger a negative response.

The declaration is currently being translated and will be published on the EP’s intranet. The EDPS recommends that the EP sends a copy of that declaration to candidates or that it ensures that the declaration is attached to the application form. In any event, the declaration must be published on the EP’s public internet site, because candidates will not necessarily have access to the EP’s intranet prior to their selection.

Please inform the EDPS of measures adopted in order to comply with the recommendation made in this Opinion, within a period of three months.

Yours sincerely,

**(signed)**

Giovanni BUTTARELLI

Cc: Mr Secondo Sabbioni, Data Protection Officer, EP