



GIOVANNI BUTTARELLI
ASSISTANT SUPERVISOR

Mr Ralph PETHKE
Director
Office for Harmonization in the Internal
Market (OHIM)
Avenida de Europa, 4
03008 Alicante
SPAIN

Brussels, 26 March 2014
GB/XK/sn/D(2014)0758 C 2012-0852
Please use edps@edps.europa.eu for any
correspondence

Subject: Notification on selection procedures for officials, temporary and contract agents and trainees at the Office for Harmonization in the Internal Market ("OHIM"), case 2012-0852

Dear Mr Pethke,

We have analysed the supplementary and revised documents you have provided to the EDPS concerning the above notification, in light of the EDPS Guidelines on staff recruitment ("the EDPS Guidelines").

The amended notification and privacy statement show that OHIM has, in principle, aligned its staff recruitment procedures with the EDPS Guidelines. Having said this, the retention period of recruited applicants' personal data (stored in their personal files) does not conform to the EDPS Guidelines.

The EDPS considers that the retention period of 120 years after the data subject's date of birth is excessive and not "*necessary for the purposes for which the data were collected or for which they are further processed*", as Article 4(1)(e) of the Regulation establishes. The EDPS notes that OHIM follows the Common Retention List (CRL) of the Commission. The EDPS has never approved the CRL, and the retention period of personal files is still under discussion between the EDPS and the Commission. The EDPS therefore invites OHIM to reconsider the 120 year retention period taking into consideration the agency's needs and previous experiences. The EDPS reiterates his recommendation as outlined within the Guidelines; specifically that EU

Postal address: rue Wiertz 60 - B-1047 Brussels

Offices: rue Montoyer 30

E-mail : edps@edps.europa.eu - Website : www.edps.europa.eu

Tel.: 02-283 19 00 - Fax : 02-283 19 50

institutions and bodies should only keep the personal data of recruited applicants in the personal file for ten years from termination of employment or last pension payment¹.

Due to the fact that the only pending issue is still under discussion with the Commission, the EDPS has decided to close case 2012-0852. The EDPS will inform OHIM about the outcome of his discussions with the Commission about retention periods, once a decision has been reached.

Yours sincerely,

(signed)

Giovanni BUTTARELLI

Cc : Mr Gregor SCHNEIDER, Data Protection Officer
Mrs Kirsten BAUCH, Head of service (HR, Staffing & Entitlements & Welfare Service)

¹ EDPS Opinions concerning evaluation of statutory staff: case **2007-406** of 3 August 2007 (European Ombudsman), case **2006-297** of 19 October 2006 (ECOSOC), case **2005-218** of 15 December 2005 (Commission), case **2004-293** of 28 July 2005 (OHIM), case **2004-281** of 4 July 2005 (ECJ).