



GIOVANNI BUTTARELLI
ASSISTANT SUPERVISOR

Gilbert GASCARD
Director
Research Executive Agency
COV2 18/132
B-1049 Brussels

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GB/TS/sn/D(2014)1191 C 2013-0855
Please edps@edps.europa.eu for all
correspondence

Subject: Notification for prior checking concerning registration, selection and management of independent experts by the REA

Dear Mr Gascard,

I refer to the notification for prior checking concerning the Registration, Selection and Management of Experts that was submitted to the European Data Protection Supervisor (EDPS) by the Data Protection Officer (DPO) of the Research Executive Agency (REA) on 15 July 2013.

We note that the procedure relates to the selection of external experts already registered in the **Expert Area in the Participant Portal (EAPP)** established for the Horizon 2020 Framework Programme for Research and Innovation¹ for tasks involving evaluation of research and innovation proposals and the review of research and innovation projects, as well as the management of contracts with the engaged experts.

As the already existing procedures are in more aspects in compliance with Regulation (EC) No 45/2001 (the Regulation)² as outlined in the related EDPS Guidelines³, we will only address the existing practices which do not seem to be fully compliant in this regard.

1. Data conservation. According to the information provided in the notification, personal data of registered experts are kept until the end of the related Framework Programme unless they have "opted-in" for a further storage for the forthcoming programme at the time of

¹ The successor of the 7th Framework Programme for Research established by Regulation (EU) No 1291/2013 of the European Parliament and of the Council of 11 December 2013.

² Regulation (EC) No 45/2001 of the European Parliament and the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data.

³ EDPS Guidelines on public procurement, grants as well as selection and use of the external experts of 25 June 2013 (EDPS 2012-501).

registration. Personal data of the engaged experts are kept for ten years after the end of the related project in accordance with the Common Retention List of the European Commission⁴.

Article 4(1)(e) of the Regulation states that personal data can be kept in a form permitting the identification of data subjects for no longer than necessary for the purpose for which they were collected or further processed.

The EDPS observes that the existing time limit for the files of registered experts can be considered as necessary for their selection and engagement in the respective framework programme - current or forthcoming.

At the same time, we would like to question the necessity of the storage of data of the engaged experts for ten years. In particular, we would like to recall that the further storage for control and audit purposes should correspond to the time limits set out in Article 48(1)(d) and (2) of the Rules of Application to the Financial Regulation⁵. Therefore, we invite the REA to shorten the existing conservation period to a maximum of seven years.

Furthermore, we note that in principle the extracts from judicial records should not be kept for longer than two years after the signature of the related contract⁶. Consequently, we invite the REA to establish such a limit for the conservation period for extracts kept in electronic form.

2. Information to data subjects. Specific privacy statement containing all information listed in Articles 11 and 12 of the Regulation should be soon available on the EAPP homepage⁷ as well as in the initial registration form. We recommend that it is done as soon as possible since the first calls for expression of interest under the Horizon 2020 Framework Programme have been already launched.

In conclusion, the EDPS considers that there is no reason to believe that there is a breach of the Regulation on condition that the considerations provided in this Opinion are fully taken into account. In particular, the REA should:

- shorten the existing conservation period of the files of the engaged experts to a maximum of seven years;
- establish a maximum conservation period of two years for extracts from judicial records kept in electronic form;
- make the specific privacy statement available as announced.

The EDPS would like to invite the REA to inform him about the implementation of these recommendations within three months after receipt of this letter.

(signed)

Giovanni BUTTARELLI

Cc: Evangelos TSAVALOPOULOS, Data Protection Officer

⁴ Common Commission-level Retention List for European Commission files of 4 July 2007 - SEC(2007) 970.

⁵ Commission Delegated Regulation (EU) No 1268/2012 of 29 October 2012 on the rules of application of Regulation (EU, Euratom) No 966/2012 of the European Parliament and the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union.

⁶ See to this respect the letter on conservation of extracts from the judicial records sent by the EDPS to the management of all EU institutions and bodies on 12 March 2013 (EDPS 2011-482).

⁷ <http://ec.europa.eu/research/participants/portal/desktop/en/experts/index.html>.