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**Subject: Notification on selection and recruitment of interim agents at the European GNSS Agency**

Dear Mr des Dorides,

On 24 April 2014, the European Data Protection Supervisor ("**EDPS**") received a notification for prior checking under Article 27(2) of Regulation (EC) No. 45/2001 (the "**Regulation**") relating to selection and recruitment of interim agents from the Data Protection Officer of the European GNSS Agency ("**GSA**").

Since the EDPS has already issued Guidelines on staff selection and recruitment<sup>1</sup>, the present Opinion will focus on those aspects where the processing operations diverge from the Guidelines or otherwise need improvement.

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<sup>1</sup> Available on the EDPS website under Supervision, Thematic Guidelines.

## **The facts**

In order to fulfill the purpose of the processing, the GSA uses an interim agency to process the data of the applicants. A service agreement between the GSA and the interim agency is established and stipulates that the processor only shall act on instructions from the controller. After the interim agency has screened the candidates' CVs, the relevant applications are submitted to the GSA and the recruiting department decides on the candidates to be shortlisted for interviews.

## **Legal Analysis**

### **Grounds for prior checking**

The notification referred to Article 27(2) points (b) (evaluation of personal aspects) and (d) (processing intended to exclude from a right, benefit or contract) as reasons for prior-checking. In the view of the EDPS, only Article 27(2)(b) is relevant here; point (d) targets processing operations such as blacklists and asset freezing.<sup>2</sup>

### **Information to data subjects**

The privacy statement does not appear to inform the data subjects of any time limits for requests and responses. It is good practice to include information on in which time limit a reaction can be expected (e.g. 3 months for access request, without delay for rectification, etc.). Consequently, we recommend that such a time limit will be added to the privacy statement.

The notification and the privacy statement both mention a number of possible recipients of personal data, such as the OLAF and the European Ombudsman. For your information, with regard to Article 2(g) of the Regulation, authorities which would only receive data in the context of specific targeted inquiries are not considered "recipients" and do not *need* to be mentioned in the privacy statement.<sup>3</sup>

## **Conclusion**

The EDPS considers that there is no reason to believe that there is a breach of the provisions of the Regulation provided that the considerations contained in this Opinion are fully taken into account. In particular, the GSA should add in the privacy statement the time limits for requests and responses.

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<sup>2</sup> Exclusion databases offer an example of Article 27(2)(d): if a person is placed on the exclusion list, she is worse off (in that he/she is no longer eligible for participation in calls for tender) than if the exclusion database did not exist. Article 27(2)(d) therefore applies to such databases. See cases 2010-0426 and 2009-0681.

<sup>3</sup> This is an exception to the information obligations in Article 11 and 12, but not to the rules on transfers in Articles 7 to 9. In practice, this means that authorities such as the OLAF, the European Ombudsman or the EDPS do not need to be mentioned in the privacy statement (unless the processing operation in question involves transfers to these organisations as part of the procedure); however, the applicable rules on transfers will always need to be respected.

The EDPS expects the GSA to implement the recommendations accordingly and will close the case.

Thank you for your cooperation.

Yours sincerely,

**(signed)**

Giovanni BUTTARELLI

Cc: Ms Triinu VOLMER, Data Protection Officer - GSA