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GB/TS/ktl D(2014)2381 C **2013-0722**
Please use edps@edps.europa.eu
for all correspondence

Subject: Prior checking notification concerning probation and performance appraisal

Dear Mr Jaccarini,

I refer to the notification for prior checking concerning probation and performance appraisal submitted to the European Data Protection Supervisor (EDPS) by the Data Protection Officer (DPO) of the European Institute for Gender Equality (EIGE) on 26 June 2013.

We note that both procedures are in most aspects in compliance with Regulation (EC) N° 45/2001¹ (the Regulation) as outlined in the EDPS Staff Evaluation Guidelines² and will thus only address the existing information to data subjects policy which does not seem fully compliant in this respect.

The information to data subject is provided in the form of a specific privacy statement posted on the Intranet. We note that most of the information required in terms of Articles 11 and 12 of the Regulation is contained therein.

However, the information about the recourse to the EDPS seems to be missing and the information about the time limits for storing of data processed in this context seems to be misleading. The information provided on the "validity period" states that "identified personal data and career development reports are available five years after their completion".

¹ Regulation (EC) No 45/2001 of the European Parliament and of 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.

² EDPS Guidelines on the processing of personal data in the area of staff evaluation of 15 July 2011 (EDPS 2011-042).

Therefore, we recommend that the information about the right of recourse to the EDPS is added, as well as the information about the data conservation is revised in the following manner: the probation and performance appraisal reports are kept for up to five years after the end of the respective procedure.

In conclusion, the EDPS considers that there is no reason to believe that there is a breach of the Regulation provided that the consideration contained in this Opinion is fully taken into account. In particular, the EIGE should revise the existing privacy statement in a manner outlined above.

We would like to invite the EIGE to inform us about the implementation of this recommendation within three months after receipt of this letter.

(signed)

Giovanni BUTTARELLI

Cc.: Mr Ramunas LUNSKUS, Data Protection Officer