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C 2014-1123
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Subject: Notification on selection and recruitment of temporary agents, contract agents and seconded national experts at the European Asylum Support Office - Case 2014-1123

On 3 December 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 temporary agents, contract agents and seconded national experts from the Data Protection Officer of the European Asylum Support Office ("**EASO**").

Since the EDPS has already issued Guidelines on staff selection and recruitment¹, the present Opinion will focus on those aspects where the processing operations diverge from the Guidelines or otherwise need improvement.

As this is an ex-post prior check, the two-month deadline within which the EDPS must deliver his opinion does not apply. This case has been dealt with on a best effort basis.

¹ [Guidelines concerning the processing operations in the field of staff recruitment](#), available on the EDPS website under Supervision, Thematic Guidelines.

Legal Analysis

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 time limits within which a reaction can be expected (e.g. three months for access request, without delay for rectification, etc.).

Mandatory character of questions

According to the privacy statement, all fields in the EASO application form are mandatory and failure to reply to any question may result in the disqualification of the candidate.

However, the EDPS Guidelines on staff recruitment state that questions related to "reasons for leaving a previous post" are excessive in relation to the recruitment procedure and should not be made mandatory. The EDPS therefore recommends that the mandatory character of those questions be reconsidered unless the EASO can provide information on the necessity of the mandatory character of the above questions.

Retention period

Furthermore, the EDPS would like to comment on the retention period of personal files and selection files of non-recruited applicants.

EASO provides a retention period for personal files of eight years after the extinction of all rights of the person concerned and of any dependants, but at least 120 years after the date of birth of the person concerned. In light of Article 4(1)(e) of the Regulation, the EDPS has always considered this retention period as excessive and unnecessary to the purpose for which personal data are collected and further processed.

As the EDPS recommended in his Guidelines on staff recruitment, personal data should be stored in personal files (Article 26 of the Staff Regulations), for a period of ten years as of the termination of employment or as of the last pension payment. The EDPS highlights that the issue of the retention period of personal files is a pending issue subject to on-going discussions between the EDPS and the EU institutions, and that the EASO will be duly informed of the outcome of these discussions.

Moreover, the EASO provides a retention period for selection files of non-recruited applicants of ten years following the expiry of the reserve list related to the selection procedure. This retention period also seems excessive and unnecessary to the purpose for which personal data are collected and further processed (see Article 4(1)(e) of the Regulation).

In this context, the EDPS refers to the above-mentioned guidelines which provide that the retention period for data relating to the non-recruited applicants on the "reserve lists for appointment" is to be determined in terms of the validity and the actual extension of the respective reserve lists. An additional period of two years can be added to the validity of the reserve list to cover the length of time during which a complaint may be brought to the European Ombudsman.

Consequently, the EDPS recommends that EASO comply with the Guidelines on staff selection and recruitment with respect to the retention period of personal files and selection files of non-recruited applicants.

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 EASO should reconsider the mandatory character of the questions related to "reasons for leaving a previous post" and adopt reasonable and necessary retention periods as indicated above.

In light of the accountability principle, the EDPS expects the EASO to implement the above recommendations accordingly and has therefore decided to **close the case**. Please do not hesitate to contact us, should you have any questions.

Thank you for your cooperation.

Yours sincerely,

(signed)

Wojciech Wiewiórowski

Cc: Data Protection Officer *ad interim* EASO