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WW/MG/sn/D(2016)2408 C 2013-0789
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correspondence

Subject: Prior-check Opinion on the management of staff absences - Case 2013-0789

Dear Mr Jaccarini,

On 1 July 2013, the European Data Protection Supervisor ("EDPS") received a notification for prior checking relating to processing operations for the management of staff absences from the Data Protection Officer ("DPO") of the European Institute for Gender Equality ("EIGE") under Article 27 of Regulation (EC) No. 45/2001 (the "Regulation").

On 2 September 2013, the EDPS asked additional information to the DPO of EIGE, including a cover letter confirming that EIGE follows the thematic guidelines issued by the EDPS (Guidelines on Leave and Flexitime¹, hence the "Guidelines") and suspended the examination of the case until reception of this information. The EDPS asked again for aforesaid information on 4 March 2014 and 15 December 2014.

On 21 March 2016 the EDPS received the cover letter by EIGE confirming that "the processing of personal data in the area of leave and flexitime implemented at EIGE conforms to the related guidelines issued by the EDPS on 20th of December 2012." The EDPS acknowledged receipt of this last letter by EIGE on 13 April 2016.

¹ Available on the EDPS website on the following link:
https://secure.edps.europa.eu/EDPSWEB/webdav/shared/Documents/Supervision/Guidelines/12-12-20_Guidelines_Leave_Flexitime_EN.pdf

As this notification was submitted after the processing had already started, the deadline of two months for the EDPS to issue his Opinion does not apply. This case was dealt with on a best-effort basis.

Description and assessment

This Opinion deals with the already existing leave and flexitime procedures at EIGE. It is based on the Guidelines, which allows the EDPS to focus on EIGE practices that do not seem to be compliant with the Guidelines and the principles of the Regulation.

As stated in the cover letter by EIGE and having regard to the content of the notification (as re-submitted to the EDPS on 21 March 2016), we do not remark any divergence with the Guidelines.

As clarified by the EDPS on 13 April 2016 acknowledging receipt of the cover letter by EIGE providing the update of the notification of 1 July 2013, “as for the specific use of the Allegro system, please note that Article 27 notifications do not concern the use of a specific technology *as such*, but the overall processing of personal data pursuant to the specified purpose (in this case, processing for the purpose of granting leave and flexitime). At the same time, nonetheless, please note that, as overarching principle, processing of personal data in the 'on-line' environment should adhere to the same rules and principles (for example, on the retention periods, as you correctly specify under point 13 of the notification) applicable to the 'paper' environment.”

Conclusion

There is no reason to believe that the processing operations notified by EIGE are in breach of the Guidelines and of the Regulation. The EDPS therefore -in line with the principle of accountability- considers the case as **closed** provided that the guidelines are fully taken into account and complied with by EIGE. However, the EDPS recommends EIGE to provide an update of the notification in case of further significant developments in the processing operation (*for example*, the use of a new information system, replacing Allegro, foreseen as a possibility under point 17 of the updated notification).

Yours sincerely,

(signed)

Wojciech Rafał WIEWIÓROWSKI

Cc: Mr Christos GEORGIADIS, Data Protection Officer