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ASSISTANT SUPERVISOR

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Brussels, 03 April 2017  
WW/CG/sn/D(2017)0741 C 2013-1306  
Please use [edps@edps.europa.eu](mailto:edps@edps.europa.eu) for all  
correspondence

**Object: Your notification concerning “Grants Award and Management by the REA (Research Executive Agency) in the context of the Seventh Framework Programme for Research (FP7) - (Case 2013-1306)”**

Dear Mr [...],

On 22 November 2013, the European Data Protection Supervisor (EDPS) received a notification for prior checking under Article 27 of Regulation (EC) No 45/2001<sup>1</sup> (the Regulation) on “Grants Award and Management” by the REA (Research Executive Agency) in the context of the Seventh Framework Programme for Research (FP7).

The notification was followed by an exchange of emails between your office and the EDPS regarding the scope of the notification, in particular in the light of the starting of the Horizon 2020 Framework Programme as of 1st of January 2014.

By email of 22 September 2015, you confirmed that the REA was in the process of creating a separate notification covering Horizon 2020 and requested the EDPS to issue two different opinions: one for FP7 (case 2013-1306) and one for Horizon 2020 that was at the time in course of preparation in cooperation with DG RTD.

**1. Need for prior checking grant award and management of FP7 (2013-1306)**

Having analyzed the notification and its supporting documentation, the EDPS considers that “Grant Award and Management by REA in the context of FP7” is no longer subject to prior checking.

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<sup>1</sup> OJ L 8, 12.1.2001, p. 1.

Article 27 of the Regulation subjects a number of processing operations "likely to present specific risks" to prior checking by the EDPS. Paragraph 2 of that Article lists processing operations likely to do so. The REA notified "Grant Award and Management in the context of FP7" under the following grounds for prior checking:

- (a) processing of data relating to health and to suspected offences, offences, criminal convictions or security measures
- (b) processing operations intended to evaluate personal aspects relating to the data subject, including his or her ability, efficiency and conduct
- (d) processing operations for the purpose of excluding individuals from a right, benefit or contract

It is true that the procedure for **selection of proposals** to award grants presents specific risks under Article 27 (a), (b) and (d) and are, as a principle, subject to prior checking. The notification from the REA was made at a very late stage of the FP7 program. The EDPS received the notification on 22 November 2013 while FP7 opportunities for funding ended on 31 December 2013 and were replaced by H2020 program as of 1st January 2014. In that context, since the selection and attribution of grants under FP7 was terminating at the time of notification there was no necessity to prior check this procedure anymore.

Besides, the **management of grants**, as such, does not present such specific risks and does not, alone trigger a need for prior checking under Article 27 of the Regulation. Therefore, the continuing management of grants under FP7 until 2018 is not subject to prior checking either.

The EDPS has therefore decided to **close case 2013-1096**.

## **2. Regarding grand award and management of H2020**

On 19 October 2016, the EDPS received a notification for prior checking under Article 27 of the Regulation on grant management in the context of Horizon 2020 at DG RTD from the Data Protection Officer (DPO) of the European Commission (Commission). On 14 December 2016, the EDPS issued its prior checking opinion ([EDPS case 2016-0951](#)).

Since the REA is an executive agency of the Commission and is also processing personal data for grants award and management in the context of Horizon 2020, we would like to know whether the notification made by DG RTD should be considered to encompass or not the processing activities of the REA?

In the negative, we would like to recall that the EDPS has issued [Guidelines concerning the processing of personal data for public procurement](#) that should be complied with and that processing activities in the context of grants award and management should be notified for prior checking to the EDPS in accordance with Article 27 of the Regulation.

Thank you to provide us with a formal answer with appropriate justifications within **6 weeks** upon reception of this letter.

Yours sincerely,

Wojciech Rafał WIEWIÓROWSKI