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WW/GC/sn/D(2018)2503 C 2017-1105
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correspondence

Subject: Prior check Opinion on Selection, Recruitment and Administrative Management for international staff in CSDP Missions by the EEAS Civilian Planning and Conduct Capability (CPCC)

Dear [...],

On 30 November 2017, the European Data Protection Supervisor (EDPS) received a notification for prior checking under Article 27.2 of Regulation (EC) No 45/2001 (the Regulation)¹ relating to the selection, recruitment and administrative management for international staff in Common Security and Defence Policy (CSDP) Missions by the EEAS Civilian Planning and Conduct Capability (CPCC).

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.

The EDPS has already issued Guidelines on staff selection and recruitment². The present assessment of the processing activity has therefore focused on those aspects where the processing operations diverge from the Guidelines or otherwise need improvement.

1. Facts and analysis

As to the understanding of the EDPS, the EEAS and the respective CSDP Missions in third countries is in charge of handling CSDP missions' vacancies independently of where the position is vacant. For seconded candidates the data are submitted by their respective Member States. For contracted candidates the data are submitted by the candidates themselves with their

¹ OJ L 8, 12.1.2001, p. 1.

² Guidelines concerning the processing operations in the field of staff recruitment, available on the EDPS website at: https://edps.europa.eu/sites/edp/files/publication/08-10-10_guidelines_staff_recruitment_en.pdf.

CVs and application forms and are handled by different actors in the selection process, namely the Brussels Support Elements of the CSDP Missions, members of selection panels that include staff of Mission Support Division / Conduct of Operations Division/Chief of Staff and Missions' Member.

a) Rights of data subjects

The EDPS notes that there is a specific privacy statement for the selection, recruitment and administrative management for international staff in CSDP Missions in the EEAS available on the website of the EEAS.

However, since this information could be overlooked, the EDPS recommends that the EEAS provide the data subjects with the privacy statement before the selection procedure begins. In order for information to be easily accessible, the EEAS could include a link to the privacy notice in each vacancy notice regarding international staff in CSDP Missions.

The EDPS recommends providing the privacy statement to the data subjects before the selection procedure begins, for example through a link included into the specific privacy statement in each vacancy notices.

b) Data Quality

The notification states that the EEAS will collect contact details of the applicants and contacts from people appointed by the candidates to be contacted in case of an emergency (emergency contacts). The EDPS understands that this latter information might be relevant for administrative management of recruited staff, but it should not already be collected in the selection phase. This information would be excessive for selection purposes in the light of the data minimization principle.

The EDPS **recommends** that the EEAS collect the emergency contact details of the candidates solely regarding the recruited persons.

c) Controller-Processor relationship

The notification presents the relationship between EEAS and CSDP Missions as a controller-processor relationship, with the CSDP missions acting as processors. To our understanding, this seems to rather be a case of co-controllership.

Joint controllers should establish in a transparent manner their respective responsibilities, namely through a legally binding document.

The proposal³ for a new Regulation replacing Regulation (EC) No 45/2001 further specifies how this can be done (Article 28). The EEAS and the CSDP Missions would do well to already consider those future rules⁴.

This legal document should at least include information on (i) the way data subjects can exercise their rights, (ii) the responsibility for information security, including reporting of personal data breaches, (iii) a contact point for data subject requests and (iv) a cooperation procedure between the joint controllers for replying to data subject requests.

³ Proposal COM(2017)8 final, scheduled to be adopted by the Parliament and the Council in early Autumn 2018.

⁴ See also EDPS letter of 12 October 2017, our reference D(2017)2101 C 2016-1153.

As regards all the processing operations, the EDPS **recommends** that the EEAS and the CSDP Missions clearly establish their respective responsibilities for compliance with their data protection obligations. This should be done in particular as regards the exercising of the rights of the data subject and their respective duties to provide the information in accordance with Articles 11 and 12 of the Regulation, so as to ensure fairness and transparency towards the data subjects.

As an improvement, the EDPS **suggests** that the EEAS take into consideration the proposal for the new Regulation.

2. Conclusion

In this Opinion, the EDPS has made some recommendations to ensure compliance with the Regulation. Provided that the recommendations are implemented, the EDPS sees no reason to believe that there is a breach of the Regulation.

In light of the accountability principle, the EDPS trusts that the EEAS will ensure that these considerations and recommendations are fully implemented. The EDPS has therefore decided to **close case 2017-1105**.

Yours sincerely,

(signed)

Wojciech Rafał WIEWIÓROWSKI

Cc.: [...], DPO EEAS