



Data Protection Officer

Luxembourg, 30 April 2015

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- ACTIVITY REPORT FOR 2014 -

Introduction

1. Regulation No 45/2001 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 has been applicable at the ECA since 2002.
2. Article 24 of the Regulation requires that each Community institution or body appoint at least one Data Protection Officer (DPO). Since June 2010 Mr Johan Van Damme has been the Data Protection Officer at the Court and its mandate will expire in June 2015.
3. The Court's implementing rules, updated in 2012, require the DPO to produce an annual activity report.

Notification of processing of personal data

4. Article 25 of Regulation No 45/2001 requires controllers to notify the DPO of any data processing operation. The controllers are the Secretary-General, the directors, the heads of unit, the DPO, some committees and the panel for financial irregularities.
5. In 2014 all new personal data treatments were reported to the DPO, although some operations were only notified a few days before the processing started and one after the treatment had started. It is recommended that the person responsible for the processing (data controller) should notify the DPO from the planning phase onwards.

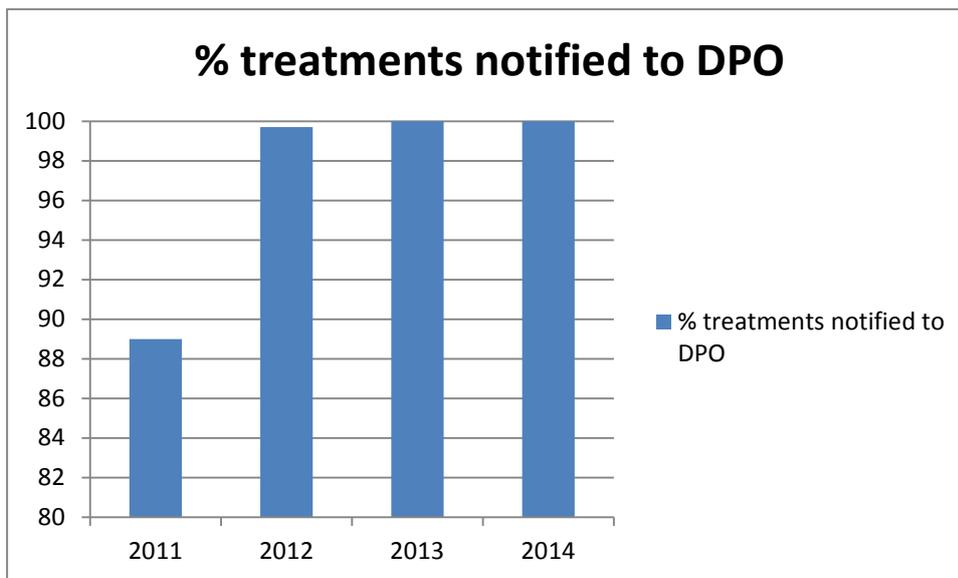
The DPO's Register

6. All the data processing operations reported by the controllers are placed in the DPO's Register, which is available on the ECA's Internet/Intranet.
7. In 2014, five new notifications were received and entered in the DPO's Register. Four notifications were updated due to a processing necessary because of the implementation of the new Staff Regulations that came into force in May 2014 and five were deleted as the processing

operations had ended. The total number of notifications remained thus at 160, with a modification rate of 9%.

8. This was the second year in a row, since the introduction of the Data Protection Regulation, in 2001, that all personal data processing operations had been notified to the DPO.
9. **Key Performance Indicator 1:** The number of notifications made to the DPO was set at 100 % and this was achieved in 2013.
10. In 2011, the notification rate was 89 % in 2012, 99.7 % and in 2013, 100%.

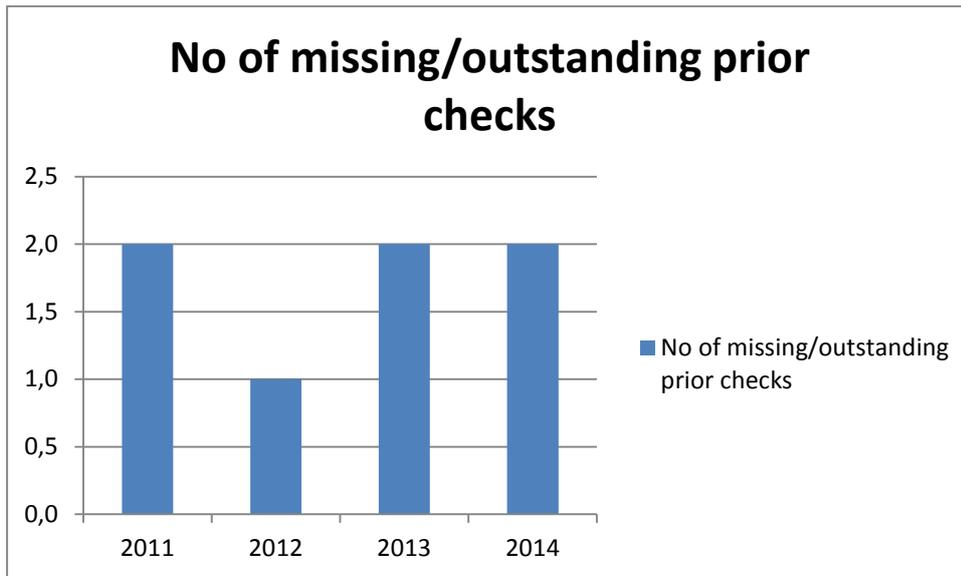
Graph 1 – Percentage (%) of treatments notified to DPO



Prior checking

11. Article 27 of Regulation No 45/2001 requires that 'processing operations concerning personal data likely to present specific risks to the rights and freedoms of data subjects by virtue of their nature, their scope or their purpose shall be subject to prior checking by the European Data Protection Supervisor (EDPS)'.
12. In 2014, one prior checking notification was made to the EDPS and concerned the treatment of medical data and two prior checking notifications were initiated, but not finalised (whistleblowing and procurement). The whistleblowing notification was upheld due to the initiative of the Ombudsman to carry out an inventory taking exercise with the view of issuing guidelines for this area.
13. **Key Performance Indicator 2:** The number of missing/outstanding prior checks was set at 0. In 2014 the number of outstanding prior checks was 2.
14. In 2011 and 2012, the number of missing prior notifications was 2, in 2013 it was 1.

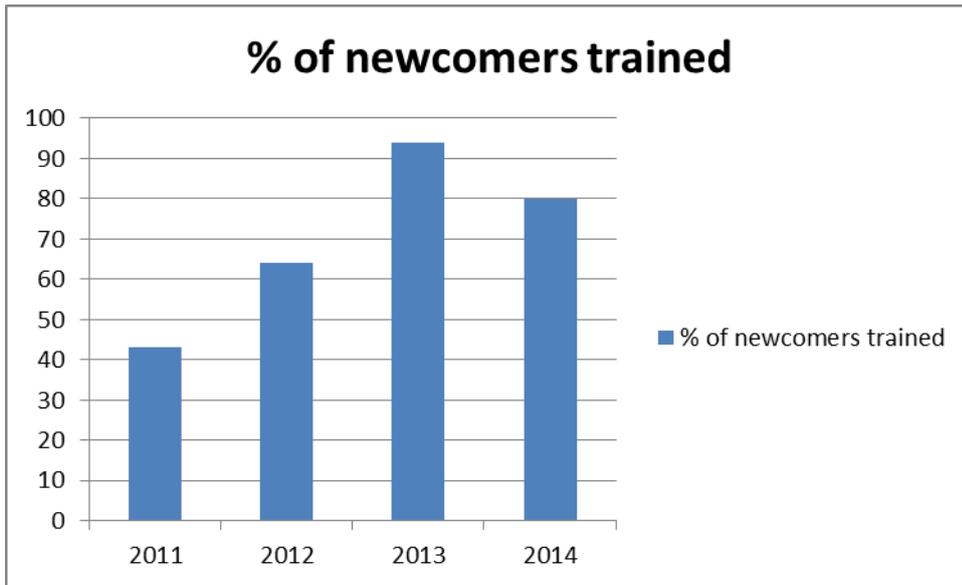
Graph 2 – Number of missing / outstanding prior checks



Data protection awareness

15. The information issued to staff since 2002 on the processing of personal data, explaining the key elements of Regulation No 45/2001, including rights and obligations, is still valid and is available on the DPO's page on the ECA's Intranet.
16. The DPO's page was used to disseminate awareness campaigns, best practices, guidelines and general information on data protection matters, including videos used by data protection authorities during their national data protection awareness campaigns.
17. Newly recruited staff is briefed about the Data Protection Regulation applicable at the EU Institutions, with a mandatory e-learning session organised by the ECA's professional training unit.
18. **Key Performance Indicator 3:** The number of newcomers to be trained within three months of recruitment was set at 100 %.
19. In 2014 a new initiative was taken to oblige all newcomers, including trainees and national experts, to follow an e-learning initiation and awareness session about data protection.
20. In 2014, 70 newcomers were trained, which represented a training rate of 80 % of all staff invited to take the e-learning session.
21. The rate for invited staff was 71 % in 2011, 87 % in 2012 and 94% in 2013.

Graph 3 – Percentage of newcomers trained



22. The number of newcomers that are invited to take the initiation training on data protection and the number of effective participants is still insufficient. The lack about data protection knowledge unnecessarily increases the risk of the non-compliant processing of personal data at the ECA. As this e-learning module is available at any time from any work station and requires few resources from the participants, it offers an extremely cheap and flexible way to make staff aware of their data protection obligations and rights. The ECA should make sure that data protection training is taking place for all newly recruited staff.
23. Over 200 staff participated in four awareness sessions, mainly focused on data protection issues linked to the use of the internet and new technologies.

Meetings with controllers, inspections and audits

24. The DPO continued to visit certain controllers at regular intervals to discuss specific and general data protection issues, mainly in the field of Human Resources and telecommunications. Ad-hoc informal meetings were held with Court staff at their request.
25. In 2014, the DPO paid special attention to surveys launched by the ECA and the respect of the rights of participants, the monitoring of the new Internet/Intranet sites and the use of personal data by the travel agency.
26. Another main project was the verification of the new telephone system in the light to guarantee the right on secrecy of correspondence (Article 8 of the Charter of fundamental rights of the European Union) and the respect of the obligations specified in the Data Protection regulation (Chapter IV).
27. The DPO assisted the archives team in establishing the retention period for every type of document processed at the ECA especially at the directorate for human resources.

28. Dumpster diving activities continued to be carried out at regular intervals and showed that the number of documents containing personal data found in the ordinary paper waste bins had been reduced to a single case. This represented significant progress compared to the period before the installation of the secure bins and to the number of cases in 2013.
29. In 2014, an audit was carried out of the new video surveillance infrastructure which resulted in minor findings and an update of the policy and information delivered to the public and its staff.
30. The DPO undertook several security audits of information systems which store and process personal data.

Cooperation between DPOs and EDPS

31. The DPOs of the EU institutions/bodies met twice during 2014 to exchange experiences and best practices and discuss data protection issues of mutual concern; they were also informed about the review of the data protection legislation.
32. The second IT training course for DPOs was developed in collaboration with three other DPOs and was organised in June 2014.
33. The reference document, with clauses to be included in procurement specifications and contracts where EU institutions, agencies and bodies planned to use cloud services, was updated in 2014 with the experiences gained and taken in account new case law.

Opinions, comments

34. In 2014, the number of opinions delivered on data protection issues in response to requests coming from various sources increased to 40 (40% increase compared with 2013 and 15% compared to 2012). The main opinions delivered were for: access to documents, travel data and its smartphone application, machine translation, promotion committee, audit/staff surveys, internet/intranet site, absences, time management, CCTV images, and right to be forgotten.

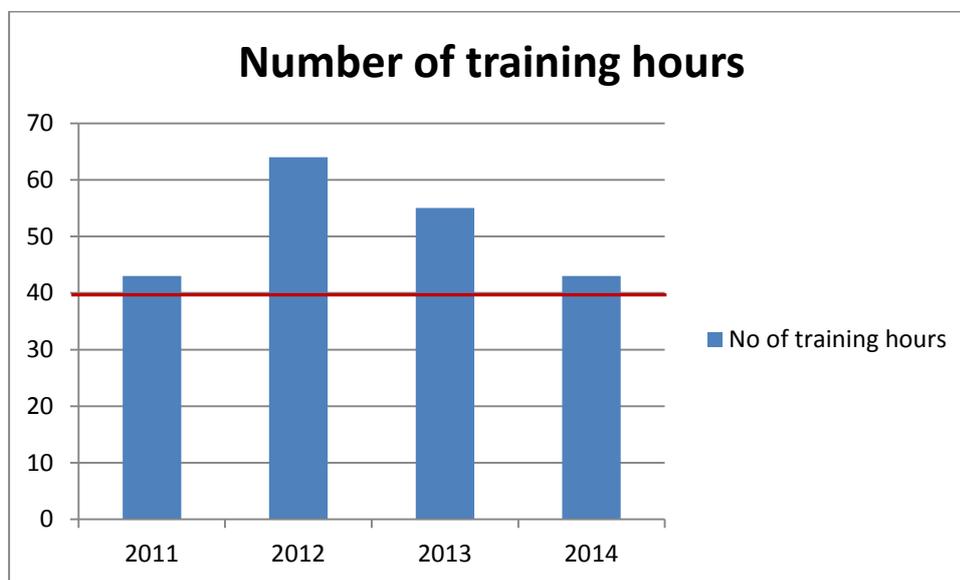
Complaints, data breaches

35. The ECA's DPO lodged one complaint with another EU body, concerning the refusal to communicate to ECA staff the procedure how their data may be collected and how it will be treated.
36. Two complaints from staff were received: one requesting to apply the right to be forgotten on the Intranet and the other concerning the commercial approach from a company based outside the EU that used personal data from the EU directory. Both requestors were satisfied with the corrective measures.
37. Two investigations were launched to identify if a data breach occurred and in both cases the conclusion was that no evidence could be found that a personal data breach occurred.

Training

38. **Key Performance Indicator 4:** To keep up with the new technologies, case law, standards and best practices the DPO should update its knowledge. At least five training days, about data protection and information security subjects and equivalent to 40 continuing professional education (CPE) hours, should be taken up every year or 120 hours over a three years period. This is equivalent to what international professional audit organisations require for their members to maintain their certification.
39. In 2014, this objective was fully met with 43 training hours.
40. In 2011, the number of hours was 43 in 2012, 64 and in 2013, 55.

Graph 4 - Number of training hours



DPO resources

41. In addition to the half-time administrator that was dedicated to the DPO function since June 2010 the Secretary General allocated from August 2014 onwards a full time assistant. This additional resource permitted the DPO to coop with the increase in its workload, review the content of its Register and update the Intranet and Internet site. The current assigned resources are judged satisfied to comply with the requirement set out in Regulation No 45/2001 to 'provide him or her with the staff and resources to carry out his or her duties'.

Conclusions

42. In 2014, additional resources were assigned to data protection, permitting to coop with the increased workload since 2010 and permitting the ECA to maintain its compliance with data protection requirements. It was a challenging year for the DPO due to the fact that there was, once again, an increase in the number of personal data processing operations, requests from the public about the ECA's processing of their personal data and requests for advice by data controllers and data processors especially in the field of cloud computing.
43. The increased interest seems to have arisen as a result of the awareness raised by the DPO and the EDPS, but also certainly comes from the topical nature of the subject and, more precisely, the almost daily revelations concerning personal data leaks and the practices applied by some national intelligence agencies and social media companies.
44. Data protection has become more visible and more important for European institutions, owing to the priorities set by the new Commission.

Johan Van Damme