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DIRECTOR

Brussels, 6 October 2020  
EDPS/LCN/msl/D(2020)2207

**Note for the attention of Mr Cristian GHINEA**  
**Rapporteur for the 2019 EDPS Discharge**  
**Committee on Budgetary Control in the European Parliament**

**Subject: Follow up to the discharge for the 2018 financial year**

According to Article 319(3) of the TFEU and Article 262 of the Financial Regulation, the European Data Protection Supervisor (hereafter EDPS) has taken all appropriate steps to act on the observations accompanying the European Parliament's discharge decision for the 2018 financial year.

This follow up report summarises the actions taken by the EDPS in response to the most pertinent paragraphs from the EP discharge resolution.

**1. Follow-up of point 9 of the resolution**

Notes that in 2018, the EDPS had a total allocated budget of EUR 14 449 068 (compared to EUR 11 324 735 in 2017), which represents an increase of 27,59 % compared to the 2017 budget (a 21,93 % budget increase from 2016 to 2017); welcomes the fact that 93,7 % of all appropriations have been committed by the end of 2018 compared to 89 % in 2017; notes with concern that the budget implementation in terms of payment appropriations corresponds to 75,2 % (compared to 77 % in 2017) of all appropriations

As regards the budget implementation of 75% in terms of payment appropriations, we would like to draw your attention on 2 points:

- A lot of commitments were still open at the end of 2018 due to missing invoices related to actions performed during the last months of the year. A specific and exceptional event, the International Conference of Data Protection and Privacy Commissioners, organised at the end of October 2018, led itself to a carry-forward of more than EUR 250 000 (for rent, catering and organisational costs).
- Some commitments were related to a multi-annual implementation as for example IT consultancy contracts. Due to the creation of the European Data Protection Board (EDPB) in 2018, some of those contracts corresponded to new needs and did not constitute renewals of contracts existing before 2018. Consequently, the negative impacts of carrying-forward payments appropriations to 2019 was not balanced by adding payments from 2017 commitments.

In addition, when we add the 2019 payment appropriations related to 2018 commitments, the final execution reaches 90,79 % of the whole 2018 budget (payment amounts of EUR 13 118 368).

## 2. Follow-up of point 15 of the resolution

Notes that there is a need for greater transparency and cooperation between European data protection authorities; underlines the importance of cooperation between the EDPS and the national data protection authorities in the Member States to ensure an effective supervision and a collaboration in the preparation for the new legal framework; calls on the EDPS to inform Parliament's Committee on Budgetary Control in relation to all the results achieved

The EDPS cooperates with the national authorities predominantly under the umbrella of the European Data Protection Board, as defined in the General Data Protection Regulation. Apart from its membership in the EDPB, the EDPS provides the secretariat to the EDPB. Moreover, the EDPS cooperates with national data protection authorities in respect of joint inspection e.g. of Europol.

Please find enclosed the specific fragments of the EDPS 2018 annual report which refer to the relation and activities between the EDPS and the national data protection authorities.

## 3. Follow-up of point 18 of the resolution

Notes that the first action plan of the ethics officer was fully accomplished and that the second report foresees several measures such as the revision of the codes of conduct for supervisors and staff, a revised decision on external activities and the possible adhesion to the new transparency register for Union institutions, etc.; invites the EDPS to implement such requested measures as soon as possible; welcomes the awareness raising sessions in line with the ethics framework; asks for detailed information on the achievements arising from the ethics framework to be presented in the next annual activity report

The revised decision on external activities was adopted on 13 September 2019 raising awareness among staff with the publication of a summary. The two revised codes of conduct (for Staff and for the Supervisor) were adopted on 6 December 2019.

A raising awareness session to all staff (EDPS and EDPB) was foreseen just after the publication of the EDPS strategy originally planned for the end of March 2020. A group of participants met several times in January and February to prepare a original presentation with examples from the real life. However, as the other EU Institutions, the Covid-19 pandemic forced the lock down and it was decided to postpone this presentation to a later moment. In the meantime, all newcomers are provided with a raising awareness session on the EDPS Ethical Framework and with the new Code of conduct for staff. This happened three times already (February, June and September) with around 30 persons concerned.

The other topics of the action plan 2020 mentioned in the activity report of the EDPS Ethics officer have also been postponed because the impact of the pandemic but they will be addressed in 2021. Discussions on the possible enlargement of the transparency registry to other EU institutions have been put on hold at inter-institutional level.

## 4. Follow-up of point 19 of the resolution

Welcomes the fact that the internal rules concerning whistleblowing adopted in 2016 will be updated in order to strengthen the protection of whistleblowers and alleged wrongdoers; notes the existence of some protection measures such as a risk assessment and an access limitation to a strict "need to know basis" to the related files; encourages the EDPS to ask its ethics officer to give special attention to this issue in the next awareness raising session organised for all staff; notes with satisfaction that EDPS has had no case of whistleblowing so far

The revised code of conduct for staff of 6 December 2019 has paid particular attention to whistleblower protection especially as the EDPS has revised its own decision on internal rules concerning whistleblowing on 29 November 2019. In September 2019, the EDPS has also adopted a revised

decision concerning the terms and conditions for internal investigations in relation to the prevention of fraud, corruption and any illegal activity detrimental to the Union interests. The importance of this topic has been underlined in staff meetings and will be flagged at the next raising awareness session to all EDPS staff.

#### **5. Follow-up of point 21 of the resolution**

Recognises the added value that free and open source software can bring to the EDPS; underlines in particular their role in increasing transparency and avoiding vendor lock-in effects; recognises also their potential in the improvement of security as they allow the identification and fixing of weaknesses; strongly recommends that any software developed for the institution be made publicly available under free and open-source software licence

With reference to the added value that free and open source software can bring, the EDPS developed and made publicly available in 2019 an open source inspection software tool called Website Evidence Collector (WEC). The WEC source code was released under European Union Public License (EURL-1.2) both on the European Commission's collaborative platform Joinup and on the popular development platform GitHub, where other developers have built other tools based on this code (most recently Blacklight, A Real-Time Website Privacy Inspector tool). The WEC software has received international acclaim and won the 2019 Prize for Innovation at the International Conference of Data Protection and Privacy Commissioners organised in Tirana, Albania.

The EDPS continuously evaluates other open source software that can be used to increase transparency and avoid vendor lock-in effects. As an example, we have recently conducted successful webinars in partnership with Delft Technical University by implementing the open source online learning platform BigBlueButton in a privacy-friendly manner.

#### **6. Follow-up of point 24 of the resolution**

Calls on the EDPS to guarantee publication and regular updating on its website of all its guidelines and procedures related to the ethical framework; calls on the EDPS to continue its efforts to improve the information available online, in terms of transparency and public scrutiny

The Ethics Officer is paying careful attention to all online information relating to guidelines and procedures related to the ethical framework. All those new decisions mentioned above have been put on the Intranet immediately after their adoption.

#### **7. Follow-up of point 25 of the resolution**

Regrets the fact that more detailed information on concrete measures on how to improve well-being at work was not included in the annual activity report; welcomes, however, the fact that decision and policies have been adopted and/or implemented in 2018 such as a staff survey report, a revised decision on teleworking and a revised decision on mentorship; asks the EPDS to provide more detailed information in the next annual activity report

As concerns wellbeing, an internal coach of the EDPS is playing an important role to safeguard the wellbeing of our staff. The EDPS has adhered to the Fit@work programme of the Commission with regular information to our staff. We participate in initiatives such as VeloMai and have organised an in-house body composition measurement exercise for the EDPS.

We have also installed water-fountains at each floor and we left a "suggestions box" at disposal of the staff; the suggestions are regularly analysed and given follow-up, where appropriate.

We are expected to enlarge our premises in 2021, after the departure of the European Ombudsman, and we will use this opportunity to install a well-being room and a library.

Since April 2020, we have provided staff with contacts and information as concerns psychosocial as well as medical support and have organised regular peer chats to keep colleagues connected

during the Coronavirus crisis. We are furthermore setting up an action plan following our last Staff satisfaction survey, which includes more advice on remote working (ergonomic etc.) as well as the possibility to improve the remote work environment (e.g. equipment) and thus well-being of staff.

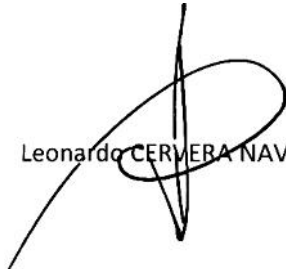
We also organise every year, around October, informal mid-term appraisals with staff (on top of the official annual appraisal), which give them the opportunity to voice concerns and give feedback in an informal way.

#### **8. Follow-up of point 28 of the resolution**

Notes with interest that the EDPS was allocated four extra offices in the MTS building currently shared with the European Ombudsman; notes that the EDPS staff, including the EDPB secretariat, is expected to grow further in 2020 and therefore a greater expansion to the entire building is necessary; supports the EDPS in relation to this request and asks it to inform Parliament's Committee on Budgetary Control in relation to all related steps and achievements

The original plans were that the EDPS would occupy the whole MTS building as of September 2019. Unfortunately, due to external factors mainly related to Brexit the move of the European Ombudsman was delayed until the end of 2020. These delays have had a big impact in terms of budget execution for 2019 and 2020.

As to the Statement of Assurance concerning the financial year 2018 (DAS 2018), no observations resulted from the audit work carried out by the Court of Auditors with respect to the reliability of the annual accounts and the annual activity report of the EDPS.

  
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