Deposit of the historical archives of the institutions at the European University Institute in Florence

2012/0221(APP) - 10/10/2012 - Document attached to the procedure

OPINION OF THE EUROPEAN DATA PROTECTION SUPERVISOR

on the Commission proposal for a Council Regulation amending Regulation (EEC, Euratom) No 354/83,

as regards the deposit of the historical archives of the institutions at the European University Institute in Florence.

Before the adoption of the proposal, the EDPS was given the possibility to provide informal comments. Many of these comments have been taken into account in the proposal. As a result, **the data protection safeguards in the proposal have been strengthened** as regards:

- the provisions on applicable law,
- the determination of the supervisory authority,
- the specification of the EUI's role as a processor, and
- the requirement to adopt implementing rules to address data protection issues at the practical level.

The EDPS considers that it is important that European institutions and bodies have **clear policies of what personal data should or should not go to the historical archives**, and how to safeguard those personal data that will be preserved and made publicly available via the historical archives. For the moment, although document management, data retention and archiving policies exist at many European institutions and bodies [for example, the Common Conservation List ('CCL'), an internal administrative document issued by the Commission], these policies provide only limited guidance on data protection. In addition, it is to be noted that **the existing policies are formulated in internal documents, rather than in a legislative instrument adopted by Council and Parliament**.

The EDPS, in this Opinion, suggests **a few targeted changes** that can be included on the occasion of the current, more limited review of the Archives Regulation. Additionally, he highlights the need for adoption of specific measures, including adequate implementing rules, to ensure that data protection concerns are effectively addressed in the context of legitimate record keeping for historical purposes.

To address remaining data protection concerns, **the EDPS recommends that the proposed amendment to the Archives Regulation**:

- specify the key objectives and minimum content of the implementing rules as well as the procedure for their adoption, including a governance structure to ensure a harmonised and coordinated approach, a clear time-frame for adoption, and consultation of the EDPS,
- clarify the rules applicable to security of personal data held in the historical archives,
- provide safeguards with regard to the private archives held by the EUI, and
- provide at least some minimum clarifications with regard to the privacy exception in Article 2 of the Archives Regulation.