



JOAQUIN BAYO DELGADO
ASSISTANT SUPERVISOR

Mr Philippe RENAUDIÈRE
Data Protection Officer
European Commission
BRU BERL 08/180
B - 1049 BRUSSELS

Brussels, 28 June 2007
JBD/SLx/ktl D(2007) 1052 C **2007-359**

Dear Mr Renaudière,

On 1 June 2007 you notified us of the "Internet statistics" personal data processing operations for prior checking. After a detailed study of the processing operation, we must conclude that, as things stand at present and as the processing operation was notified to us, it is not subject to prior checking by the European Data Protection Supervisor.

The processing operation was notified to us for prior checking on the basis of Article 27(2)(b) of Regulation (EC) No 45/2001.

Prior checking would be justified under Article 27(2)(b) if the processing operation were intended to evaluate personal aspects relating to the data subject, including his or her ability, efficiency and conduct. However, this is not the case with the processing operation under examination. The purpose of the processing operations is to ensure the proper management and operation of the data processing network and of its infrastructure in order to guarantee the performance of the network and that it meets the Commission's requirements at the lowest cost. For this purpose, DG DIGIT provides the HROs of each Directorate-General with anonymous statistics on the use of the internet in their DG. Anonymity will be waived only where an administrative inquiry is opened if misuse is suspected. However, the procedure for detecting possible misuse and for waiving anonymity is not referred to in this notification. Nor was it mentioned on the occasion of the notification relating to internal administrative inquiries and disciplinary procedures within the European Commission, which gave rise to an opinion of the EDPS¹.

On this basis, we considered that the processing operation as described in the notification received should not be subject to prior checking. However, if despite this you consider that there is information that would nevertheless justify prior checking, we are prepared to review our position. Furthermore, if the processing operation were to serve purposes other than budgetary ones, and particularly in order to evaluate the use made of internet access by each

¹ See the opinion of the EDPS on the notification for prior checking relating to internal administrative inquiries and disciplinary procedures within the European Commission of 20 April 2005 (Case 2004-187).

individual, the EDPS would nevertheless wish to carry out prior checking on the basis of the further information received in this connection.

Lastly, Article 37(2) refers to a list of traffic data agreed by the EDPS. In this connection, the EDPS would like to point out that it will rule on the list of traffic data mentioned in the notification at a later stage.

I hope that you receive this letter promptly, and would be grateful if you would keep us informed of any action taken.

Yours sincerely,

Joaquín BAYO DELGADO