



JOAQUIN BAYO DELGADO  
ASSISTANT SUPERVISOR

Ms Laraine LAUDATI  
Data Protection Officer  
European Anti-Fraud Office (OLAF)  
Rue Joseph II, 30  
B-1000 Brussels

Brussels, 6 July 2007  
JBD/RB/ab D(2007)1079 C **2007-0300**

Dear Ms Laudati,

I am writing about the prior check Notification concerning the Time Management System for OLAF (hereinafter 'TMS') which you notified to the EDPS on 8 th May 2007. In your letter you informed us that you did not believe that the data processing falls within the criteria for being prior checkable, nonetheless you asked the EDPS for confirmation.

After an examination of the data processing operations as described in the Notification, and for the reason described below, we would hereby like to inform you that we concur with your views regarding the non-prior checkable nature of TMS. Indeed, as further described below, the EDPS considers that the data processing that occurs in the context of the Time Management System is not subject to prior checking under Article 27 of the Regulation (EC) No 45/2001<sup>1</sup>.

The EDPS notes that TMS aims at providing a global overview of hours spent by OLAF staff on a pre-defined list of activities and monitor certain key activities to know how much time OLAF as a whole has spent on them. The purpose of collecting this information is to have more accurate information on the use of OLAF's human resources in order to allow for planning and resource allocation. Towards this end, the data controller (the Information Services Unit D 8) will produce regular statistical reports by organisational sub-part, e.g., sector, unit, directorate, and DG and by activity (e.g., case related versus non case related). No reports containing personal identifying information will be produced. More importantly, neither the Information Services Unit D 8 nor anyone else intends to use the information

---

<sup>1</sup> Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 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.

stored in TMS in the staff appraisal processes. In other words, the purpose of the processing does not include the evaluation of staff, their conduct, efficiency etc.

Article 27.1 of the Regulation (EC) No 45/2001 subjects to prior checking by the EDPS "*processing operations likely to present specific risks to the rights and freedoms of data subject by virtue of their nature, their scope or their purposes*". Article 27.2 of the Regulation contains a list of processing operations that are likely to present such risks. Of the various criteria listed by Article 27.2 the criteria that *a priori* could be met by the TMS is Article 27.2. (b) which subjects to prior checking those processing operations which intend to evaluate personal aspects relating to the data subject, including his or her ability, efficiency and conduct.

In the context of the TMS, the criteria for prior checking would be met if the data processing intended to evaluate personal aspects relating to the data subject. For example, if the data processing intended to evaluate OLAF staff efficiency, competence, ability to work etc. However, as stated in the Notification, this is not the case concerning the processing at issue. As noted above, the purpose of the processing does not include the evaluation of personal aspects of individuals but rather the *evaluation of OLAF activities*, in order to determine how much time OLAF as a whole has spent on them. The fact that the data will be used to produce statistical reports based on organisational subparts and by activities emphasizes that the purpose of the processing is to monitor key activities in order to enable a better planning of OLAF human resources. The processing of information for the purposes of monitoring *activities* of an EU institution with the final aim of better planning the resource allocation does not fall within the criteria of Article 27.2 of the Regulation (EC) No 45/2001, which requires prior checking. If the purposes of the processing changed and OLAF decided to use the information for the purposes of evaluating individuals, then, the processing would likely fall under Article 27.2 of Regulation (EC) No 45/2001 and would need to be prior checked by the EDPS.

In the light of the above, the EDPS considers that at this point this data processing is not subject to prior checking. Accordingly, we will consider this case as closed

I remain at your disposal should you have any questions concerning this matter.

Yours sincerely,

Joaquin BAYO-DELGADO