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ASSISTANT SUPERVISOR

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

Brussels, 16 July 2007
JBD/DH/ktl D(2007) 1127 C 2007-0376

Dear Mr Renaudière,

I am referring to the prior checking notification on the processing operations on personal data concerning "access control at JRC-IRMM in Geel" received from the Joint Research Centre (2007-376).

After examining the content of the notification and the annexes, we have come to the conclusion that **it is not subject to prior checking** under Article 27 of Regulation (EC) No 45/2001 ("the Regulation").

Article 27(1) of the Regulation subjects to prior checking by the European Data Protection Supervisor, processing operations likely to present specific risks to the rights and freedoms of data subjects by virtue of their nature, their scope or their purposes. Article 27(2) of the Regulation contains a list of processing operations likely to present specific risks in the above sense. The prior checking notification has been submitted under Article 27(2)(b) of the Regulation.

Article 27(2)(b) of the Regulation states that a specific risk is present in processing operations which intend to evaluate personal aspects related to the data subject, including his or her ability, efficiency and conduct. This is not the case here. The processing aims at establishing the list of persons, vehicles and material admitted to enter the buildings of the Geel site. Personal data are processed for the decision of granting or not access to the buildings. This decision does not concern evaluation of personal aspects. The establishment of the list is rather a technical operation depending on formal criteria than an assessment of personal aspects.

Those data could be used to evaluate personal aspects relating to the data subject in case of internal administrative enquiries (presence and absence control e.g.). This procedure however

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is not the subject of the current notification. Nor has it been mentioned in the notification on internal administrative enquiries and internal disciplinary procedure from the European Commission analysed by the EDPS in an opinion¹. In this respect we have considered that the processing is not subject to prior checking. Should the processing have other purposes than security ones, and notably to evaluate staff's working hours, the EDPS would like nevertheless make a prior checking based on additional information received.

We have also considered **Article 27(1)** of the Regulation in connection with the processing of biometric data. A photograph is a biometric data as it relates to physiological characteristics of a person allowing the precise identification of this person. Nevertheless, as it was already pointed out by the EDPS in a previous case², the sole processing of the photo (not combined with other biometric data) in itself does not present specific risks which would justify prior checking under Article 27(1), safe if other circumstances of the processing lead to specific risks.

In conclusion we believe that the processing operation does not qualify for a prior checking and the EDPS decided to close the case, unless you can give us specific grounds to reconsider.

We, of course, remain available for any further consultation on the matter.

Yours sincerely.

(signed)

Joaquín BAYO DELGADO

¹ "Internal administrative enquiries and internal disciplinary procedure from the European Commission", 20April 2005 (case 2004-187).

² See point 4 of Opinion on "Laissez-passer communautaire" EDPS case number: 2006-111.