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ASSISTANT SUPERVISOR

Mr. Nikolaos FIKATAS  
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Agency (FRA)  
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1060 Vienna  
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Brussels, 9 July 2008  
JBD/EDK/ktl D(2008)950 C 2008-0396

**Subject: Notification of processing in relation to "salaries including social contributions"**

Dear Mr Fikatas,

I am writing to you regarding the notification for prior checking the processing operations related to "salaries including social contributions" at the European Union Agency for Fundamental Rights. Having studied the information provided in the notification, the EDPS is of the opinion that the processing operations as such **do not need to be prior checked under Article 27 of Regulation (EC) No 45/2001** (hereinafter as: "the Regulation") for the reasons explained below.

Article 27(1) of the Regulation provides that "*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 shall be subject to prior checking by the European Data Protection Supervisor*"(EDPS). Article 27(2) of the Regulation provides some examples of processing operations which are likely to present such risks.

The notification for prior checking has been submitted to the EDPS under Article 27(2)(b) of the Regulation, "processing operation intended to evaluate personal aspects relating to the data subject." The EDPS is of the opinion that the data processing operations to establish remuneration rights and allowances (household allowance, dependant child allowance, installation allowance) in accordance with the Staff Regulation **do not involve an evaluation of personal behaviour or conduct**, but are rather a collection of facts measured against objective criteria for the establishment of rights, remuneration and allowances. The evaluation of personal aspects of the data subject occurs at the time of recruitment i.e. the data subject's

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competence in fulfilling the criteria and role they are recruited for, but the procedure notified happens after that and involves no further evaluation.

The notification for prior checking mentions **invalidity allowances**. An official/servant can receive such allowances if it is supported by the conclusions of the Invalidation Committee (Article 59(4) and Section III (Articles 7,8 and 9) of Annex II of the Staff Regulation). I would like to point out that the EDPS has already prior checked the data processing activities in the framework of the "Invalidity procedure" at the European Commission,<sup>1</sup> as he considered that the specific risk necessary for a prior check under Article 27(2)(a) of the Regulation is present. Should your agency follow different data processing practices than that of the invalidity procedure of the European Commission to enable officials to receive invalidity allowances, please consult the EDPS on the issue.

Should you have any further questions about the issues raised in this letter, please do not hesitate to contact me.

Yours sincerely,

(signed)

Joaquín BAYO DELGADO

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<sup>1</sup> Avis du 29 novembre 2007 sur la notification d'un contrôle préalable à propos du dossier "Procédure d'invalidité - services médicaux Bruxelles - Luxembourg" (Dossier 2007-125). Available at: [www.edps.europa.eu](http://www.edps.europa.eu)