Opinion on a notification for Prior Checking received from the Data Protection Officer of the European Commission on "Dosimetry management system of radiological workers at JRC-IE in Petten"

Brussels, 3 September 2008 (Case 2008-020)

1. Procedure

On 10 January 2008, the European Data Protection Supervisor (**EDPS**) received from the Data Protection Officer (**DPO**) of the European Commission a notification for prior checking concerning "Dosimetry management system of radiological workers" at Joint Research Centre (**JRC**) - Institute for Energy (**IE**) in Petten. The notification was accompanied by the following documents:

- *Besluit van 16 juli 2001, houdende vastselling van het Besluit stralingbescherming* (Dutch Radiation Protection Decree),
- Privacy Statement.

On 19 February 2008, the EDPS sent a draft of "facts" together with a request for additional information to the Commission's DPO. A partial reply was provided on 27 May 2008. The draft opinion was sent to the Commission's DPO and the DG JRC Data Protection Coordinator (**DPC**) for comments on 16 July 2008 and these were received on 22 July 2008.

2. Facts

2.1. Context

The present opinion deals with the dosimetry management at the JRC-IE in Petten. The personal radiation exposure data coming from measurement of the individual dosimeter and other sources are being handled by the "Safety Environment Security" (**SES**) sector at the JRC-IE.

The purpose of the processing is to be able to survey and review personal radiation exposure of (internal and external) workers and visitors according to legal and statutory obligations. In particular, this processing shall establish whether

- the radiological workers will stay within the legal limits,
- actions are needed to prevent workers from reaching these limits,
- improvements in working methods are necessary.

The controller of this data processing is the Head of the SES Section of Directorate F of the JRC-IE in Petten (in his function as Radiological expert for the Institute).

The processor: Personal radiation dosimeters with unique reference number for identification of a worker are provided by the Nuclear Research and Consultancy Group (**NRG**), an external company based in the Netherlands.

2.2. Legal requirements in the area of ionising radiation

Legal requirements in the area of protection against the dangers arising from ionising radiation are laid down in International Atomic Energy Agency (**IAEA**) Basic Safety Standards No 115 of 1996, as well as in the Directives 96/29/Euratom and 90/641/Euratom as implemented into the 2001 Dutch Radiation Protection Decree (**BS**)[1]**.**

Individual monitoring: For exposed category A workers[2]**,** there should be a systematic individual monitoring based on individual measurements established by an approved dosimetric device (Article 25 (1) of the Directive 96/29, Article 6 (d) of the Directive 90/641 - Article 87 of the BS).

Monitoring for category B workers shall be at least sufficient to demonstrate that such workers are correctly classified in category B; individual monitoring may be required (Article 25 (2) of the Directive 96/29 - Article 87(1) of the BS).

The operational protection of apprentices and students aged 18 years and over shall be equivalent to that of exposed workers of category A or B as appropriate. The operational protection of apprentices and students between 16 and 18 years shall be equivalent to that of exposed workers of category B (Article 39 of the Directive 96/29 - Article 78 of the BS).

Accidental and emergency exposure: In the case of accidental exposure, the relevant doses and their distribution to the body shall be assessed (point 1.46 (d) of the Annex 1 to the IAEA 115/1996, Article 26 of the Directive 96/29 - Article 89(1) of the BS). In the case of emergency exposure, individual monitoring or assessment of the individual doses shall be carried out as appropriate to the circumstances (point 1.46 (d) of the Annex to the IAEA 115/1996, Article 27 of the Directive 96/29 - Article 89(2) of the BS).

Recording and reporting of results: A record containing the results of the individual monitoring shall be made for each exposed category A worker. It shall be retained during the working life involving exposure to ionising radiation of exposed workers, and afterwards until the individual has or would have attained the age of 75 years, but in any case not less than 30 years from the termination of the work involving exposure (points 1.45, 1.46 (a) - (c), 1.49 of the Annex 1 to the IAEA 115/1996, Article 28 of the Directive 96/29, Article 6 (f) of the Directive 90/641 – Articles 90, 91 and 100 (2) of the BS).

The results of individual monitoring shall be made available to the competent authorities, to the undertaking, to the worker concerned and to the approved medical practitioner or approved occupational health services in order to interpret their implications for human health as provided in Article 31 of the Directive 96/29. In the case of an accidental or emergency exposure, the results of the individual monitoring shall be submitted without delay (point 1.47

[1]As to the applicability of the national legislation within the European Commission, it has to be recalled that in line with the established ECJ jurisprudence, national law applies within EU institutions insofar as it does not run counter the smooth functioning of these institutions. In fact, the privileges and immunities granted to the Communities on a basis of Article 291 of the Treaty, as implemented in the 1965 Protocol *"have a purely functional character, inasmuch as they are intended to avoid any interference with the functioning and independence of the Communities"* - cf. ECJ, 1/88, SA Générale de Banque/ Commission [1989] ECR 857, §9; ECJ, C-2/88 Zwartveld and Others [1990] ECR I-3365, §§ 19 and 20; CFI, T-80/91 Campogrande/ Commission [1992] ECR II-2459, §42.

[2] Exposed workers who are liable to receive an effective dose greater than 6 mSv per year or an equivalent dose greater than 3/10 of the dose limits for the lens of the eye, skin and hands, forearms, feet and ankles in terms of Article 21 (a) of the Directive 96/29

(a) and (b) of the Annex 1 to the IAEA 115/1996, Article 29 of the Directive 96/29 - Articles 92 and 93 of the BS).

All doses relating to specially authorised exposures of category A workers shall be separately recorded in the medical record referred to in Article 34 of the Directive 96/29 and the individual record referred to in Article 28 of the Directive 96/29 (Article 12 (1) (e) of the Directive 96/29 – Articles 95 and 100(1c) of the BS).

Upon request, workers shall have access to the results of their individual monitoring (point 1.47 (a) of the Annex to IAEA 115/1996, Article 38 (2) of the Directive 96/29 - Article 92 (2) of the BS).

Medical surveillance and medical records: Medical surveillance of category A workers must allow for ascertaining the state of health of workers under surveillance as regards their fitness for the tasks assigned to them (fit, fit subject to certain conditions, unfit). It shall include a medical examination prior to employment or classification as category A worker and periodic review of health at least once a year (Articles 31 - 33 of the Directive 96/29 - Articles 96-98 of the BS).

A medical record shall be opened for each category A worker and kept up to date so long as he remains a worker of that category. Thereafter, it shall be retained until the individual has or would have attained the age of 75 years, but in any case not less than 30 years from the termination of the work involving exposure to ionising radiation. It shall include information regarding the nature of the employment, the results of the medical examinations prior to the employment or classification as a category A worker, the periodic reviews of health and the record of doses required by Article 28 (Article 34 of the Directive 96/29 - Article 100 of the BS).

Special surveillance of exposed workers: Special medical surveillance shall be provided in each case where one of the maximum dose limits has been exceeded. Subsequent conditions of exposure shall be subject to an agreement of the approved medical practitioner or approved occupational health services (Article 35 of the Directive 96/29 - Articles 99 and 88(2) of the BS).

Further examinations, decontamination measures or urgent remedial treatment shall be carried out if considered necessary by the approved medical practitioner or approved occupational health services (Article 36 of the Directive 96/29 – Explanatory text to Article 99 of the BS).

Information and training: The exposed workers shall be informed on the health risks involved in their work, i.e. the general radiation protection procedures and precautions to be taken, as well as the importance of complying with the technical, medical and administrative requirements. They shall also be given training in the field of radiation protection (Article 22 (1) (a) and (2) of the Directive 96/29 - Articles 15 - 17 of the BS).

2.3. Description of the processing

The following automatic and manual processing operations were mentioned in the notification form and specified in the additional information provided:

- production of a unique reference number to be used as a dosimeter identifier and linked to a name;
- production of a list of a dosimeter reading every four weeks (externally);
- updating of personal data;

- updating of employer data;
- checking by the Qualified Expert whether the dosimeters are read out;
- analysis by the Qualified Expert of the dosimeter radiation exposure;
- addition of effective dose due to data obtained from other sources than the dosimetry;
- manual transfer of the data.

The actual data processing operations were described in the notification and the relating documents in the following manner:
- Personal radiation dosimeters with a unique reference for identification of the internal or external worker are provided by the NRG and distributed by the JRC-IE Site Safety Officer.
- At the end of the exposure period of four weeks, the dosimeters are measured by the NRG. The list of results is distributed at the JRC-IE to Medical Staff, Director, Unit Heads, Qualified Nuclear Experts and Site Safety Officer. This information is then put into the Dosimetry Radiation Excel spreadsheet by the Qualified Nuclear Expert. This file has several data entries.
- Workers performing radiation work on other sites require radiation passbooks which is an individual radiological monitoring document. It contains information about the dose received from the beginning of the year at one place for the Qualified Expert of another site where the radiological worker could receive dose. This to be able to check that the limits are not reached and to add the dose received at different places (if the person's own dosimeter is not used at the other place).

2.4. Data subjects

The persons identified as occupationally exposed to ionising radiation, i.e. JRC staff (officials, temporary and contract agents), apprentices and students, external staff under contract and visitors.

2.5. Categories of data processed

According to the information provided, the following data are being processed:
- name of the data subject,
- level of the radiological safety training (training education level of data subject),
- category of radiological worker,
- place / building dosimeter of the data subject,
- date of the refreshment of the (radiological safety) training course,
- possession of the radiation passport,
- unit of the data subject,
- gender of the data subject,
- nationality of the data subject,
- language of the data subject,
- social security number or personnel number of the Commission (used as unique identifier),
- personal radiation exposure data.

2.6. Recipients

According to the information provided in the notification (including its attachments), the data may be disclosed to the following recipients:
- JRC-IE Director, JRC-IE Unit Heads of the respective data subject;
- JRC-IE Qualified Nuclear Expert;

- JRC-IE Site Safety Officer (who also ensures the back-up for the JRC-IE Qualified Nuclear Expert);
- NRG (Nuclear Research and Consultancy Group);
- JRC Medical Officer and Medical Service of the Commission (Luxembourg),
- employer of the external workers (Qualified Experts, approved medical practitioners, Human Resources),
- national supervisory authorities (Labour Inspectorate of the Ministry of Social Affairs and Employment; Housing, Spatial Planning and Environment Inspectorate).

2.7. Data retention

The individual dosimetry records are retained during the working life involving exposure to ionising radiation and afterwards until the individual had or would have attained the age of 75 years, but in any case not less than 30 years from the termination of the work or from the visit date (Article 28 of the Directive 96/29 - IAEA 115/1996).

After the indicated period, data leading to identification of the data subject will be erased respectively be made anonymous. Other related data will be stored for longer periods for historical and/or statistical use.

2.8. Rights of data subjects

The data subjects' rights (access, rectification, blocking and erasure) can be exercised upon a request to the controller. To this aim, the following functional mailbox can be used: jrc-ie-ses@ec.europa.eu.

Following a justified and legitimate request by the data subject, the administrative personal data will be modified in the database within 15 working days.

Results from personal radiation exposure data cannot be modified, but comments of the data subject can be added.

2.9. Information given to data subjects

Privacy Statement is distributed to the concerned data subjects and published on the Intranet JRC-IE website. The Privacy Statement submitted for review provides for the following information: identity of the controller, purpose of the processing operation, certain recipients, rights of access and rectification, time-limits for storing of the data, contact details of the Commission DPO and the DG JRC DPC, as well as the right to send a complaint to the EDPS.

Notification of the data subjects: According to the information provided in the notification, there is annual information about total yearly dose.

2.10. Security measures

Commission Decision C (2006) 3602 of 17 August 2006 concerning the security of information systems used by the European Commission defines the IT security measures in force. Annex I defines the security requirements of EC Information Systems. Annex II defines the different actors and their responsibilities. Annex III defines the rules applicable by users.

The part of the server where the database is located is password protected.

Only authorised staff from the JRC-IE SES may gain access to the computer systems processing personal data regarding radiation exposure data.

3. Legal Aspects

3.1. Prior checking

Applicability of the Regulation: The present notification relates to the processing of personal data (*"any information relating to an identified or identifiable natural person"* - Article 2(a) of the Regulation) carried out in the exercise of activities falling within the scope of Community law (Article 3(1) of the Regulation). The processing is partly automatic (production of a list of monthly dosimeter reading) and the personal data collected are kept in structured files (Article 3(2) of the Regulation). Therefore, the Regulation (EC) 45/2001 is applicable.

The scope of the prior checking analysis is restricted to the processing of dosimetry data[3]. The medical surveillance of workers exposed to ionising radiation will be analysed in a separate opinion.

Grounds for prior checking: Article 27(1) of Regulation (EC) No 45/2001 subjects to prior checking by the EDPS all "*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 that are likely to present such risks. This list includes *"processing of data relating to health"* (Article 27(2) (a) of the Regulation). Processing of dosimetry data clearly concerns health related data and thus needs to be subjected to prior checking.

Ex-post prior checking: Since prior checking is designed to address situations that are likely to present certain risks, the opinion of the EDPS should be given prior to the start of the processing operation. In this case however the processing operation has already been established. In any case, this is not a serious problem in that any recommendations made by the EDPS may still be adopted accordingly.

Deadlines: The present notification was received on 10 January 2008. According to Article 27 (4) of the Regulation, the EDPS opinion must be delivered within a period of two months. The procedure was suspended for a total of 154 days, plus the month of August. Consequently, the present opinion must be delivered no later than 11 September 2008.

3.2. Lawfulness of processing

The lawfulness of the processing operations must be examined in light of Article 5 of Regulation 45/2001. The notification for prior checking stated that the processing is necessary according to Article 5(a) of the Regulation *("processing necessary for the performance of the task carried out in the public interest on the basis of the Treaties establishing the European Communities or other legal instruments adopted on the basis thereof or in the legitimate exercise of official authority vested in the Community institution or body or in a third party to whom the data are disclosed").*

[3] As suggested by the name and the description of the processing operation as submitted in the prior checking notification

Although there is a "grey zone" between Articles 5(a) and (b) of the Regulation, the EDPS considers that in the present case, Article 5(b) of the Regulation allowing for *"processing necessary for compliance with a legal obligation to which the controller is a subject"* is applicable. Indeed, the controller of the processing operation is subject to very specific legal obligations laid down in the 2001 Dutch Radiation Protection Decree (BS) implementing the Directives 96/26 and 90/641 (cf. point 2.2 above) and the processing in question is necessary to comply with it.

3.3. Processing of special categories of data

Pursuant to Article 10(1) of the Regulation, the processing of health related data is prohibited except in specific predefined circumstances, such as when the processing is *"necessary for the purposes of complying with the specific rights and obligations of the controller in the field of employment law insofar as it is authorised by the Treaties establishing the EC or other legal instruments adopted on the basis thereof"* in terms of Article 10(2) (b) of the Regulation or *"necessary to protect the vital interests of the data subject"* in terms of Article 10(2)(c) of the Regulation.

As explained above, the purpose of the processing in question is the compliance with the mandatory rules imposed on the controller with respect to the protection of occupationally exposed persons as laid down in the Dutch Radiation Protection Decree (BS) implementing the Directives 92/26 and 90/641. In any case, the processing of health-related data of visitors accessing controlled areas could be justified with respect to the necessity to protect their life and health. Article 10 of the Regulation is therefore fully complied with.

3.4. Data Quality

The data quality principles enshrined in Article 4(1)(a), (c) and (d) of the Regulation require that the data are *"processed fairly and lawfully"*, they are *"adequate, relevant and not excessive in relation to the purposes for which they are collected and/or further processed"*, as well as *"accurate and, when necessary, kept up to date"*.

Fairness and lawfulness: Lawfulness has already been discussed (cf. point 3.2.) and fairness will be dealt with in relation to information provided to data subjects (cf. point 3.8.).

Adequacy and relevance: The data processed in connection with dosimetry management at JRC-IE Petten are of administrative and medical nature. The EDPS is of the opinion that the processing of the data subject's social security number cannot be deemed necessary for the surveillance of staff exposed to the ionising radiation. Instead, the personnel number should be used as identifier. Therefore, he recommends that it should not be processed in this context, unless the necessity of its processing can be reasonably explained.

Accuracy: the EDPS notes that several measures are put in place in order to comply with this data quality principle, ranging from the attribution of a unique identification number to each professionally exposed person to the possibility to request rectification of inaccurate or incomplete data processed (cf. also point 3.7.). Article 4(1) (d) of the Regulation is therefore duly complied with.

3.5. Data retention

Article 4(1)(e) of the Regulation states that personal data must be *"kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for*

which the data were collected or for which they are further processed". In addition, *"the personal data which are to be stored for longer periods for statistical purposes should be kept either in anonymous form only, or if that is not possible, only with the identity of the data subject encrypted"* and *"shall not be used for any other purpose"*.

As indicated above, the records containing results of individual monitoring are retained for at least 30 years after the termination of the work or visit involving exposure to ionising radiation, but no longer until the individual has or would have attained 75 years (Articles 90, 91 and 100(2) of the BS). In addition, the data stored for further statistical purposes are kept in anonymous form.

Considering that the storage of accurate dosimetry data may have significant relevance later in the context of medical treatment of the person concerned and/or in view of possible occupational diseases' related claims, the EDPS considers the legally prescribed time limit as reasonable. Article 4 (1)(e) of the Regulation is thus fully respected.

3.6. Transfer of data

Articles 7, 8 and 9 of Regulation (EC) No 45/2001 set out certain obligations that apply when the processed data are being transferred to third parties. The rules differ depending on whether the transfer is made to or within a Community institution or a body (based on Article 7), to recipients subject to Directive 95/46/EC (based on Article 8), or to other types of recipients (based on Article 9).

As indicated above, the data may be transferred to the following recipients:
- JRC-IE Director, JRC-IE Heads of Unit of the respective data subjects;
- JRC-IE Qualified Nuclear Experts;
- JRC-IE Site Safety Officer;
- JRC Medical Officers;
- Medical Service from the Commission (ADMIN Luxembourg);
- NRG (Nuclear Research and Consultancy Group) established in the Netherlands;
- employer of the external workers (Qualified Experts, approved medical practitioners, Human Resources),
- national supervisory authorities (Labour Inspectorate of the Ministry of Social Affairs and Employment; Housing, Spatial Planning and Environment Inspectorate).

Internal transfers: The transfers to the JRC-IE Director, Heads of Unit, Qualified Nuclear Experts, Site Safety Officers, Medical Officers, as well as to the Commission Medical Service shall be examined in light of Article 7 of the Regulation 45/2001. This Article provides that *"personal data can be transferred within or to other Community institutions or bodies if the data are necessary for the legitimate performance of the tasks covered by the competence of the recipient"* (paragraph 1) and *"the recipient can process the data only for the purposes for which they were transmitted"* (paragraph 3).

The EDPS notes that the internal transfers fall within the legitimate performance of the tasks covered by the competence of the respective recipient. In fact, the JRC-IE Director, as well as the respective Heads of Unit have to ensure adequate protection of persons professionally exposed to ionising radiation at the Institute for Energy whereas the ADMIN Medical Service in Luxembourg and the JRC Medical Officers are responsible for the medical surveillance of the professionally exposed persons.

In order to ensure full compliance with Article 7 of the Regulation, the EDPS recommends that all internal recipients are reminded of their obligation to process the data only for the purpose for which they were actually transmitted.

Transfer to recipients subject to Directive 95/46/EC: The data transfers to the Dutch supervisory authorities, to the NRG, as well as the transfers of external workers' data to their employers established in the EU shall be examined in light of Article 8 of the Regulation. This Article allows for transfers to recipients subject to (the national law adopted for the implementation of) Directive 95/46/EC *"if the recipient establishes that the data are necessary for the performance of a task carried out in a public interest or subject to the exercise of public authority"* (Article 8 (a) of the Regulation).

The transfers to the Dutch supervisory authorities, to the processor acting on behalf of the JRC-IE, as well as to the external workers' employer established in the EU are necessary for the exercise of public authority and/or for the exercise of a public interest task in the area of protection against ionising radiation in accordance with the applicable national legislation. The necessity of the actual transfer is established jointly by the sender and the recipient.

Transfers to recipients <u>not</u> subject to Directive 95/46/EC: The transfers of external workers' data to their employer not established in the EU, as well as the transfers of data of third countries nationals to the respective third countries national authorities shall be examined in light of Article 9 of the Regulation. In principle, transfers to recipients not subject to Directive 95/46/EC may occur only *"if an adequate level of protection is ensured in the country of the recipient or within the recipient international organisation and the data are transferred solely to allow tasks covered by the competence of the controller to be carried out"* (paragraph 1), unless one of the exceptions defined in paragraph 6 is applicable. In the present case, Article 6 (a, d, e) of the Regulation (transfer based on "*the unambiguous consent of the data subject"*, transfer "*necessary or legally required on important public interest grounds"*, transfer *"necessary in order to protect the vital interests of the data subject"* may be applicable.

3.7. Rights of access and rectification

Right of access: Pursuant to Article 13 of the Regulation, "*the data subject shall have the right to obtain, without constraint, at any time within three months from the receipt of the request and free of charge from the controller information at least as to the purposes of the processing operation, the categories of data concerned, the recipients to whom the data are disclosed and communication in an intelligible form of the data undergoing processing and of any available information as to their source".*

As indicated above, the right of access can be exercised upon a request to the controller via the following functional mailbox: jrc-ie-ses@ec.europa.eu. Therefore, Article 13 of the Regulation is fully respected.

Right of rectification: Article 14 of the Regulation provides that *"the data subjects shall have the right to obtain from the controller the rectification without delay of inaccurate or incomplete information".*

The EDPS notes that the right of rectification can be somewhat limited because of the nature of the processing operation in question. It clearly applies to the updating of administrative data processed in this context. Nevertheless, it is more difficult to guarantee this right with

respect to dosimetry measurements. In principle, it cannot be excluded that the person concerned requests a review by another radioprotection expert.

3.8. Information to the data subject

In order to ensure transparency and fairness of the processing of personal data, Articles 11 and 12 of Regulation 45/2001 provide for certain information to be supplied to the data subjects. The provision of Article 11 is applicable in case *"the data have been obtained from the data subject"*, the provision of Article 12 in case the data have been obtained from other source. In the present case, both articles are applicable since the data processed are being obtained from the person concerned, as well as from the external dosimetry service (NRG).

As indicated above, the Privacy Statement containing the following information:
- identity of the controller,
- purpose of the processing operation,
- certain recipients,
- rights of access and rectification,
- time-limits for storing of the data,
- contact details of the Commission DPO and the DG JRC DPC,
- as well as the right to send a complaint to the EDPS

is distributed by email or in hard copy to the data subjects and published on the Intranet JRC-IE website.

In order to ensure the full compliance with Articles 11 and 12 of the Regulation, the EDPS recommends that
- the Privacy Statement is completed as to information about possible data recipients (by adding a reference to the national supervisory authorities, NRG, employer of the external workers), as well as about the legal basis applicable,
- the revised Privacy Statement is also made available to concerned visitors.

3.9. Processing data on behalf of controllers

Determination of the controller and the processor: As indicated above, an external company is involved in the processing of personal data of persons exposed to ionising radiation in controlled areas of the IE in Petten (NRG). This Dutch Nuclear Research and Consultancy Group is processing the relevant data on behalf of the Head of the SES Section of Directorate F of the JRC-IE in Petten who in turn determines the purpose and the means of the actual processing (Article 2 (d) and (e) of the Regulation).

Contract concluded between the controller and the processor: Article 23 of the Regulation 45/2001 stipulates that the controller must "*choose a processor providing sufficient guarantees in respect of the technical and organisational security measures required by Article 22 of the Regulation"* (paragraph 1) and that "*the carrying out of a processing operation by way of a processor must be governed by a contract or legal act binding the processor to the controller"* stipulating, in particular, that the processor has also to comply with **obligations of confidentiality and security** as set out in the national law transposing Articles 16 and 17 (3) of the Directive 95/46/EC (paragraph 2) .

According to Article 16 of Directive 95/46/EC, the processor *"shall not process personal data except on instructions from the controller, unless required to do so by law"* ("confidentiality of processing").

Article 17 (3) of Directive 95/46/EC specifies that appropriate technical and organisational measures must be adopted by the controller and the processor *"to ensure a level of security appropriate to the risks represented by the processing and the nature of the personal data to be protected. Such measures shall be taken in particular to prevent any unauthorised disclosure or access, accidental or unlawful destruction or accidental loss, or alteration, and to prevent all other unlawful forms of processing".*

In order to ensure the full compliance with Article 23 of the Regulation, the legal act binding the processor to the controller should provide for the above mentioned confidentiality and security obligations as set out in the applicable Dutch data protection legislation.

4. Conclusion

There is no reason to believe that there is a breach of the provisions of Regulation 45/2001 provided that the above considerations are fully taken into account. In particular,

- the staff member's social security number should not be processed in this context, unless the necessity of its processing can be reasonably explained;

- all internal recipients should be reminded of their obligation to process the data only for the purpose for which they were actually transmitted (Article 7 (3) of the Regulation);

- the Privacy Statement should be revised in light of Articles 11 and 12 of the Regulation in order to provide complete information about the possible recipients, as well as the legal basis applicable;

- the revised Privacy Statement should also be made available to concerned visitors;

- the legal act binding the NRG to the JRC-IE should include the confidentiality and security obligations as set out in the applicable Dutch legislation (Article 23 of the Regulation).

Done at Brussels, 3 September 2008

(signed)

Peter HUSTINX
European Data Protection Supervisor