



JOAQUIN BAYO DELGADO  
ASSISTANT SUPERVISOR

Mr Loïc JULIEN  
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European Ombudsman  
avenue du Président Robert Schuman 1  
B.P. 403  
F-67001 Strasbourg Cedex

Brussels, 18 September 2008  
JBD/DH/ktl/D(2008) 1236 **C 2008-0052**

Dear Mr JULIEN,

After examining the notification of the SUPERVISEO processing operation, we have come to the conclusion that such processing does not require prior checking by the European Data Protection Supervisor (EDPS).

The processing was notified under Article 27(2)(b) of Regulation (EC) No 45/2001 ("*processing operations intended to evaluate personal aspects relating to the data subject, including his or her ability, efficiency and conduct*").

First of all, SUPERVISEO is used to centralise data relating to the progress of cases being handled by lawyers: cases awaiting action by the lawyer, complainant or institution, or awaiting internal approval or translation. The purpose of SUPERVISEO is therefore to serve as a work management tool. This tool can be used to monitor the performance of lawyers and trainees, and can be used in the annual staff assessment report.

However, although the statistics which can be generated by SUPERVISEO could be one of the elements used for reporting on officials, the EDPS wishes to stress that this processing operation is not carried out systematically or as a rule and so is not intended to evaluate data subjects as provided for in Article 27(2)(b).

Secondly, if the statistics were used for the annual staff assessment report, the processing operation would have to follow the measures described and the recommendations issued by the EDPS in the opinion on the notification for prior checking received from the European Ombudsman's Data Protection Officer concerning the "Staff Assessment" case (2007-406) in order to comply with Regulation (EC) No 45/2001. The fact that SUPERVISEO was not examined as part of the 2007-406 case does not mean that the opinion does not apply to the processing operation that would result from SUPERVISEO if it is made part of the reporting procedure. The European Ombudsman has already addressed that issue by including for

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example the following sentence in the information for the data subject: *the data mentioned in SUPERVISEO (...) may be used for the annual staff assessment report.*

Lastly, and notwithstanding the above considerations, we have examined in detail certain aspects of the processing operation based on the notification. It should be noted that, in view of the content of the information page to be added to SUPERVISEO, the following requirements need to be added: (1) a right of access to data concerning the data subject if SUPERVISEO statistics are made part of the reporting procedure; (2) the right to correct these data; and (3) the right to have recourse to the EDPS at any time. Please notify the EDPS within three months of the measures adopted in order to comply with these recommendations.

On that basis, we have decided to close case 2008-0052. However, if you feel that there are other factors that could justify prior checking of the processing operation notified, we would be prepared to re-examine our position.

Best regards,

(Signed)

Joaquín BAYO DELGADO