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ASSISTANT SUPERVISOR

Ms Elena FIERRO SEDANO
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Innovation
MADO 04/05
B-1049 Brussels

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GB/RB/ab D(2009)546 **C2009-0162**

Dear Ms. Fierro Sedano,

After having reviewed the notification for prior checking on the personal data processing related to the use of mobile phone by Executive Agency for Competitiveness & Innovation ('EACI') staff going on mission, we have come to the conclusion that the case is **not subject to prior checking** by the EDPS.

The processing was submitted for prior checking ("Notification") under Article 27 (2) (b) of the Regulation (EC) No 45/2001 ("the Regulation"). **Article 27(2) (b)** of the Regulation subjects to prior checking processing operations intended to evaluate personal aspects related to the data subject.

In this case, as it is stated in the Notification and further confirmed by the data controller, the purpose of the processing is to control the invoices over 50 Euro of the mobile phones in order to ensure that costs for private calls are reimbursed to the EACI. Evaluating personal aspects relating to staff members, including their ability, efficiency or conduct, is outside the ends of the processing. Being that the case, the EDPS considers that the processing is not subject to prior checking under Article 27(2) (b).

Based on the above considerations **the EDPS has decided to close the case**. However, if you believe that there are other factors justifying prior checking of the notified processing, we are prepared to review our position.

Thank you in advance for your answer and cooperation.

Yours sincerely,

Giovanni BUTTARELLI

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