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Dear Mr Antoniou,

We refer to your consultation under Article 46 (d) of Regulation (EC) 45/2001 addressed to the EDPS in your email of 20 October 2009 in which you ask the EDPS whether a controller of a processing operation can be a team or should be a single person. As you explained in your e-mail, the issue of controller was raised when you received a draft notification on a system called "Performance Measurement System". You also stated that this new project at CEDEFOP was set up by a "CEDEFOP Performance Measurement Team" proposed by the Management.

According to Article 2(d) of Regulation 45/2001, a controller means the Community institution or body, the Directorate-General, the unit or any other organisational entity which alone or jointly with others determines the purposes and means of the processing of personal data. For the processing operation in question, it is not clear as to whether the CEDEFOP Performance Measurement Team is part of a specific unit or organisational entity, such as for instance the Human Resources Unit of the agency. In terms of hierarchical organisation and responsibility, a unit or organisational entity should be responsible for the processing operation in question, which would be considered as the controller.

The Regulation remains silent as to whether a controller can be or should be a single person or not. Nevertheless, Article 4(2) specifies that it is up to the controller to ensure that the principles of data quality are complied with. Therefore, it is essential that a specific person should be designated as in charge of a processing operation. The identity of a specific person is also important, so that he/she can act as interface and contact person with the data subjects for the exercise of their rights provided in Articles 13-19 of the Regulation. The designation of an "appointed controller" would thus ensure better transparency and full compliance with the data protection principles provided in the Regulation.

In the light of the above, the EDPS recommends that the notification should not only indicate the Performance Measurement Team which set up the processing operation in question, but also the unit or organisational entity of the agency to which the Team belongs. Moreover, a specific person should be designated as "appointed controller" and this information should be stated in the notification as well as in the note of information under Articles 11 and 12 of the Regulation.

We also invite you to evaluate whether the processing operation in question should be subject to prior checking by the EDPS in conformity with Article 27 of the Regulation.

We remain at your disposal for any query you may have.

Kind regards,

(signed)

Peter HUSTINX