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ASSISTANT SUPERVISOR

Mr Philippe RENAUDIÈRE
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European Commission
BERL 12/350
B-1040 Brussels

Brussels, 23 March 2011
GB/DH/kd/D(2011) 583 **C 2010-0964**

Dear Mr Renaudière,

I am contacting you regarding the notification on the "Management of the technical archives of the JRC Ispra site" (2010-0964).

After examining the data processing operations described in the prior checking notification and after receiving the requested additional information from the data controller, the EDPS has reached the conclusion that this processing operation is not subject to prior checking.

On 3 December 2010, the European Data Protection Supervisor (EDPS) received from the Data Protection Officer (DPO) of the Commission a notification for a prior checking relating to the processing operations of Management of the technical archives on the basis of article 27(2) (a) of Regulation (EC) No 45/2001 (hereinafter "The Regulation"). The documents archived to comply with the Italian legal obligations relating to the activities of constructions and building maintenance may include (i) a medical certificate of aptitude of every worker and (ii) an extract of the register of industrial accidents of the external contractor. It is worth mentioning that the (iii) criminal record of every worker is also collected.

In an e-mail of 17 January 2011, the EDPS requested further clarification on the above mentioned data processing operation. It is clear from the answer received that the aptitude certificate (i) only contains a general indication that the worker is "apt to do the task related to his/her qualification". This document is provided by the contractor's general practitioner and does not contain any medical data *strictu sensu*.

(ii) The "register of industrial accidents" is a register kept by every contractor in accordance with a legal obligation under Italian law. The JRC does not specifically request an extract of this register but it may happen that the contractor sends it together with other documents actually requested by the JRC. The intention of the JRC is not to collect and/or process data relating to health and therefore the EDPS considers, in the present case, that the possibility to receive health data is not a sufficient basis to submit the processing operation to prior checking. Having said this, the EDPS does recommend the JRC to minimize the risk of

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collecting such data in the frame of this processing operation. It is up to the JRC to find the best way to do so.

(iii) The collection of the criminal record is part of the "nulla osta" processing operations and therefore has already been prior checked by the EDPS in his Opinion on the Ardos database issued on 15 December 2008 (2007-380).

After careful analysis of the available information, the EDPS therefore concludes that the present processing operation as described in the notification and in further exchanges of e-mails is not subject to prior checking under Article 27 of Regulation (EC) No 45/2001 unless other facts are submitted to its attention.

The EDPS would appreciate if you could share these considerations with the controller and inform us of the follow-up given to the recommendation on data minimization within three months of receipt of this letter.

We, of course, remain available for any further consultation on the matter.

Giovanni BUTTARELLI

Cc: Mr Dolf VAN HATTEM, Head of Unit of the Joint Research Centre;
Mr Adriaan EECKELS, Archivist of the Joint Research Centre;
Mr Yves CRUTZEN, Data Protection Coordinator of the Joint Research Centre;
Mr Louis GEORGES, Data Protection Assistant of the European Commission.