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Subject: Opinion on the notification for prior checking from the Data Protection Officer of the European Joint Undertaking for ITER and the Development of Fusion Energy concerning leave requests.

Dear Mr Jahreiss,

On 21 March 2013, the European Data Protection Supervisor ("EDPS") received from the Data Protection Officer ("DPO") of the European Joint Undertaking for ITER and the Development of Fusion Energy ("F4E") a notification for prior checking concerning leave requests. The notification was accompanied by the following documents:

1. Cover letter.
2. Specific privacy notice on personal data protection in relation to the processing of leave and part-time requests.
3. Confidentiality statement regarding the processing of information related to Fusion for Energy staff members' health status (or their relatives' health status).

The DPO sent this notification to the EDPS following the adoption on 20 December 2012 of the Guidelines on Leave and Flexitime (the "Guidelines"). The EDPS sent a request for information on 2 May 2013, which was replied on 4 July 2013.

The processing operations covered include leave requests (including leave on personal ground (unpaid leave for agents under the Conditions of employment of Other Servants), sick leave, annual leave and in general all special leave as well as parental and family leave) and part time requests. The data subjects are the F4E staff members or their relatives in case the latter give ground for leave (for instance requests for unpaid/special/parental/family leave or part-time).

However, it was specified that the notification does not cover the processing of health data (related to sickness or accident) by the medical services as these processing operations are already covered by 4 health notifications 2011, 1088-1091 and for which the EDPS issued an Opinion on 7 June 2012 analysing F4E management of health data.

Furthermore, following the request for further information, the DPO stated that the special leave cases where health related data are processed are all covered by one of the 4 health notifications 2011-1088-1091 (sick and special leaves included).

Finally, the notification states that the processing is based solely on Article 27.2(d). However, in the framework of general leave procedure, the EDPS considers that only Article 27.2(a) should apply. Indeed, the EDPS considers that leave management does not have as its primary purpose to exclude individuals from a right, benefit or contract.

In the light of the elements provided, the EDPS considers that there is no basis for conducting a new prior-checking Opinion as the processing operations are already covered under another EDPS Opinion.

Nonetheless, the EDPS analysed the privacy statement which was provided with the notification and the confidentiality statement and he welcomes that the LeaMa application (leave management application) has a “Delete” function that shall be manually triggered by the LeaMa manager on a periodical basis. Upon launching this feature, the application will delete all data for which retention period has expired on that date.

Therefore, the EDPS has decided to **close this case**.

Let me take this opportunity to thank you and your staff for your collaboration on this matter.

(signed)

Giovanni BUTTARELLI

Cc: Ms Angela BARDENHEWER-RATING, Data Protection Officer, F4E