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ASSISTANT SUPERVISOR

Mr Eric SCHUTZ  
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TO 56 5/18  
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Brussels, 14 October 2013  
GB/MV/sn/D(2013)0127 C 2013-0346  
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**Subject: Opinion on the notification for prior checking from the Data Protection Officer of the Artemis Joint Undertaking on leave management**

Dear Mr Schutz,

On 27 March 2013, the European Data Protection Supervisor ("EDPS") received from the Data Protection Officer ("DPO") of the ARTEMIS Joint Undertaking ("Artemis") a notification for prior checking concerning the leave management, which covers annual leave, sick leave and special leave. The notification was accompanied by the following documents:

1. Cover letter from the Executive Director;
2. Artemis privacy statement for the processing of personal data related to leave;
3. Decisions Artemis-GB-45/08 and Artemis-GB-2010-D.05 of Artemis Governing Board.

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 the draft for comments on 1 October 2013 and the reply was received on 9 October 2013.

### **Legal aspects**

This Opinion deals with the already existing leave procedures at Artemis. It is based on the Guidelines, which allows the EDPS to focus on Artemis practices that do not seem to be compliant with the Guidelines and the principles of Regulation 45/2001.

The EDPS takes note that you underlined in your cover letter of 27 March that Artemis does not depart from the EDPS Guidelines. He also notes that the Decisions of Artemis governing board foresee that the general implementing rules of the Staff Regulations, as adopted by the European Commission, shall apply by analogy to the staff of the Artemis.

As stated in the notification, the processing is aimed at managing and collecting personal data for assessing the entitlement to annual leave, sick leave and special leave for Artemis staff members (temporary agents, contract agents).

The EDPS analysed the privacy statement and found that its content is in line with Regulation 45/2001.

As to security measures, the EDPS notes that the declaration of confidentiality to be signed by the HR staff that are subject to an obligation of professional secrecy equivalent to that of a health professional, in compliance with Article 10(3) of the Regulation is missing. As stated in the Guidelines (under point 10): "given the particular sensitivity of the processing of health related data and considering that data indicating the health status of a person are processed by HR services during a leave request procedure (e.g. reason for the absence, forms concerning sick leave, medical certificates, etc), the EDPS recommends that all persons within HR services who are responsible for processing information related to the staff members' health status are reminded to process them in accordance with the principles of medical confidentiality". Therefore, the EDPS invites Artemis to adopt such declaration of confidentiality.

### **Conclusion**

In view of the above, the EDPS recommends that the Artemis:

1- adopts a declaration of confidentiality to be signed by HR staff dealing with the leave related processing operations.

The EDPS would like to invite Artemis to inform him about the implementation of these recommendations within three months after receipt of this letter.

**(signed)**

Giovanni BUTTARELLI

Cc: Ms Anne Salaün, Data Protection Officer, Artemis Joint Undertaking  
Mr Juan Pablo Contreras, Head of Administration, Artemis Joint Undertaking