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Brussels, 17 July 2014
GB/TS/sn/D(2014)1538 C2014-0563
Please use edps@edps.europa.eu
for all correspondence

Subject: Prior checking notification concerning the appraisal, probation and management probation of the Director

Dear Ms Murillo,

I refer to the notification for prior checking concerning annual appraisal, probation and managerial probation of the Director submitted to the European Data Protection Supervisor (EDPS) by the Data Protection Officer (DPO) of the European Agency for Health and Safety at Work (EU OSHA) on 23 May 2014, together with the Draft Decision of the Governing Board concerning the appraisal of the EU OSHA Director.

We note that the evaluation of the Director within these three procedures will be carried out by four reporting officers designated by the EU OSHA Governing Board¹ and - if applicable - the Chairperson of the Governing Board acting as the appeal assessor.

As all these procedures are in most aspects in compliance with Regulation (EC) N° 45/2001² (the Regulation) as outlined in the EDPS Staff Evaluation Guidelines³, we will only address the existing information to data subjects policy which does not seem fully compliant in this respect.

¹ Three from among its members and the fourth one from the European Commission - cf. Article 3 of the respective Draft Decision.

² Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data.

³ EDPS Guidelines on the processing of personal data in the area of staff evaluation of 15 July 2011 (EDPS 2011-042).

The EDPS notes all information listed in Articles 11 and 12 of the Regulation is provided in the privacy statement attached to the email informing the Director about the launch of the particular evaluation exercise.

Nevertheless, the privacy statement refers to the "appeal" instead of the recourse to the EDPS. We recommend that it is clarified that the data subject has the right to have recourse to the EDPS at any time.

In conclusion, the EDPS considers that there is no reason to believe that there is a breach of the Regulation provided that the consideration contained in this Opinion is fully taken into account. In particular, the EU OSHA should revise the existing privacy statement in a manner outlined above.

The EDPS expects the EU OSHA to implement this recommendation accordingly and will close the case.

Yours sincerely,

(signed)

Giovanni BUTTARELLI

Cc: Michaela SEIFERT, DPO