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ASSISTANT SUPERVISOR

[...]
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Brussels, 15 March 2018
WW/ALS/sn/D(2018)0609 C 2017-0493

**Subject: Prior-check Opinion on the Whistleblowing Procedure at the EDPS
(case 2017-0493)**

Dear [...],

On 15 May 2017, the European Data Protection Supervisor (EDPS) received a notification for prior checking under Article 27 of Regulation (EC) No 45/2001¹ ('the Regulation') on the whistleblowing procedure from the Data Protection Officer (DPO) of the EDPS.²

The EDPS as supervisory authority has issued Guidelines on how to process personal information within a whistleblowing procedure ('the Guidelines').³ Therefore, the description of the facts and of the legal analysis will only mention those aspects which differ from these Guidelines or otherwise need improvement. In the light of the accountability principle guiding his work, we would nonetheless like to highlight that *all* relevant recommendations made in the Guidelines apply to the processing operations put in place for this whistleblowing procedure.

In order to avoid any confusion, 'we' or 'EDPS as supervisor' refers to the EDPS as the supervisory authority for the processing of personal data by the EU institutions. When referring

¹ OJ L 8, 12.1.2001, p. 1.

² As this is an ex-post case, the deadline of two months does not apply. This case has been dealt with on a best-effort basis. The case has been pending in relation to questions about security measures. On 29 January 2018 the EDPS was informed that, in order to proceed with the case, we will include a recommendation about the security for this processing activity in the Opinion.

³ Guidelines on processing personal information within a whistleblowing procedure, available at: https://edps.europa.eu/sites/edp/files/publication/16-07-18_whistleblowing_guidelines_en.pdf

to the EDPS as controller for the notified processing operation, we use ‘controller’ or ‘EDPS as controller’.

EDPS recommendations and reminders are highlighted in bold below.

Description and assessment

1. Ensure confidentiality of all persons implicated in a whistleblowing report

We welcome the fact that the controller ensures the protection of the whistleblower’s identity but **stresses that the accused person should be protected in the same manner as the whistleblower**. The reason is due to a possible risk of stigmatisation and victimisation of that person within the organisation to which they belong. The accused persons will be exposed to such risks even before they are aware that they have been incriminated and before the alleged facts have been investigated to determine whether they are substantiated.

2. Security measures

[...]

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In light of the accountability principle, we trust that the EDPS as controller will ensure that these considerations and recommendations are fully implemented. We have therefore decided to **close case 2017-0493**.

Yours sincerely,

(signed)

Wojciech Rafał WIEWIÓROWSKI

Cc: [...], DPO, EDPS