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ASSISTANT SUPERVISOR

Mr Philippe RENAUDIÈRE
Data Protection Officer
European Commission
BRU BERL 08/180
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JBD/MVPA/ktl D(2007)1121 C 2007-367

Dear Mr Renaudière,

I am writing to you concerning your notification for prior-checking under Article 27.1 and 27.2(b) of Regulation (EC) 45/2001 (hereinafter "the Regulation") of the processing operations on personal data concerning "eTELMA - telephone calls database at JRC Ispra Site".

After assessing the notification form it appears that the processing operations are not subject to prior-checking.

Indeed, in a previous Opinion¹, the EDPS has considered that in this context, a prior-check should be conducted under Article 27.1 of the Regulation when the processing activity implies a violation of the confidentiality of communications. This is not the case in the processing activities described in the notification form, since the content of the communications is not processed.

Apart from that, a prior check would be justified under Article 27.2(b) of the Regulation if personal aspects of the data subject were evaluated, such as his/her ability, efficiency and conduct. From the description made in the notification form, it is observed that this kind of evaluation is not done.

Considering those characteristics the EDPS concludes that the processing activities mentioned are not subject to prior-check. However, if the present processing activity would change the purpose, or any other aspect would change, implying a specific risk to the rights and freedoms of data subjects, the EDPS would be grateful if you notify him those changes so that a prior-check assessment can be conducted.

¹ See Opinion on case 2006-0508.

Concerning Article 37.2 of the Regulation, which makes reference to a list to be agreed by the EDPS indicating the traffic data that may be processed, the EDPS would like to let you know that he will come back to you in this regard in a later stage.

Please do not hesitate to contact me should you have any question.

Yours sincerely,

Joaquín BAYO DELGADO