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ASSISTANT SUPERVISOR

Mr Marc Schauss
Data Protection Officer
Court Of Justice Of The European
Communities (Curia)
Boulevard Konrad Adenauer
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Luxembourg

Brussels, 19 July 2007
JBD/TS/ktl/D(2007)1180 C 2007-0438

Dear Mr Schauss,

On 1 June 2007 you submitted a notification concerning data processing operations in the area of fixed telephony at the European Court of Justice.

The data processing operations A ("Attribution of the service phones") and C ("Directory") concern personal data of users of the service phones, that is their names, phone numbers, office numbers and assignments. These data are collected in order to ensure the proper functioning of the service, as well to facilitate the inter-institutional cooperation. The users' directory is dynamically generated from a database containing information collected from the new staff members before their entry into service. The directory is published on the intranet and in paper form.

The data processing operation B ("Billing of private communications realised via service phones") concerns the following billing data: attributed number, called numbers, communications' duration and costs (global and per call). These data are processed only for budgetary purposes, namely in order to allow for the reimbursement of private calls made by using the service phones.

After an in-depth analysis of the processing operations as described in the notification, we have come to conclusion that at present, **these operations are not subject to prior checking by the European Data Protection Supervisor.**

The above mentioned processing operations were submitted for prior checking on the basis of Article 27 (1) of the Regulation (EC) 45/2001.

As regards the processing of users' data (processing operations A and C), no specific risks justifying prior checking have been identified. In particular, no violation of Article 38 of the Regulation (EC) 45/2001 has been established with respect to the maintenance and access to the users' directories. However, if you feel that there are nevertheless factors justifying prior checking, we are prepared to review our position.

As regards the processing of billing data (processing operation B), as pointed out in the previous EDPS cases¹, such processing is subject to prior checking on the basis of Article 27 (1) of Regulation (EC) 45/2001 if there is a breach of confidentiality in terms of Article 36 of Regulation (EC) 45/2001. This is not the case here since the actual content of communications is not being processed.

However, should the billing data be processed for other than budgetary purposes, in particular to evaluate the staff conduct with respect to the inappropriate or excessive use of the service phones, the EDPS would like to carry out prior checking on the basis of Article 27 (2) (a) or (b) of Regulation (EC) 45/2001. In addition, if you feel that there are nevertheless factors justifying prior checking, we are prepared to review our position.

Without prejudice to the above considerations, we have examined certain aspects of the notified processing operations and would like to provide the following comments:

- **Information provided to the data subjects** are incomplete, in particular as regards information about data recipients, legal basis of the processing, data retention period and right to have recourse to the EDPS as laid down in Article 11 and 12 of the Regulation (EC) 45/2001. This information should be completed accordingly.
- As to the **data retention period** applicable to the processing operation B, according to the information provided in the notification, the **traffic** data can be kept for up to six months after collection. This data retention period is in compliance with Article 37 (2) of the Regulation (EC) 45/2001. In this context, it should be mentioned that the EDPS intends to publish a list of traffic data in terms of Article 37 (2) of the Regulation (EC) 45/2001 at a later stage.
- However, the notification also mentions that the **billing** data contained in the original supporting documents (including the attributed numbers) are stored for the period of five years starting from the date on which the European Parliament grants a discharge for the budgetary year to which the documents relate. The retention of data for the purposes of budgetary discharge, control and audit should be in line with Article 49 of the Regulation implementing the Financial Regulation². Therefore, unnecessary personal data contained in the original supporting documents shall be deleted. In any case, in terms of Article 37 (2) of the Regulation (EC) 45/2001, called numbers should be deleted within six months after their collection at the latest.

Thank you in advance for your cooperation.

Yours sincerely,

Joaquín BAYO DELGADO

¹ "Telephony" of the European Economic and Social Committee and Committee of Regions (EDPS 2006-508), "Storage of communication data" of the European Investment Bank (EDPS 2004-302) et "Gestel" of the Commission (EDPS 2007-302)

² Commission Regulation (EC, Euratom) 478/2007 of 23 April 2007 amending Regulation (EC, Euratom) 2342/2002 laying down detailed rules implementing Council Regulation (EC, Euratom) 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities