



JOAQUIN BAYO DELGADO
ASSISTANT SUPERVISOR

Ms Malgorzata NESTEROWICZ
Data Protection Officer
European Maritime Safety Agency
(Emsa)
Av. Dom João Ii, Lote 1.06.2.5 0
Lisbon - Portugal

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JBD/MV/ktl D(2007)1723 C 2007-0570

Dear Mrs Nesterowicz,

On 17 September 2007 you sent for prior checking a notification of personal data processing operations relating to the procedure of "renewal of contracts and extension of secondments" at EMSA(Case 2007-0570). Having looked at this in depth, we must conclude that as things stand at present, and considering the processing as notified to us, it is not subject to prior checking by the European Data Protection Supervisor (EDPS).

The processing was submitted to the EDPS for prior checking on the basis of Article 27(5) of Regulation (EC) No 45/2001.

The EDPS made a request for clarification on the reasons to decide whether the renewal or not of the contract of a temporary agent/contractual agent and the extension of secondments is based solely on a letter by the Head of Unit/relevant hierarchical superior indicating the wish to renew(extend)/not to renew(not to extend) the contract (the secondment) and in most cases on a motivation for it.

Indeed, the EDPS does not consider such a letter as a processing operation in itself, but the procedure which leads to the adoption of this letter might be.

You confirmed that there is no special procedure leading to the decision of the head of unit concerning the prolongation of a contract or a secondment. Obviously, the whole performance of the employee is the basis of such decision and also, in case of agents, the CDR report.

Therefore, the EDPS has decided to consider this notification for prior-checking as being a non prior-checking case. However, the EDPS has also decided to include the reference to the letter to the analysis of your notification for prior-checking on the processing operation "annual

Postal address: rue Wiertz 60 - B-1047 Brussels

Offices: rue Montoyer 63

E-mail : edps@edps.europa.eu - Website: www.edps.europa.eu

Tel.: 02-283 19 00 - Fax : 02-283 19 50

career development" (case 2007-0568), of which the letter is a final component of the evaluation's procedure.

We therefore find that the processing operation as described in your notification does not require prior checking. However, if you feel that there are nevertheless factors justifying prior checking, we are prepared to review our position

Joaquín BAYO-DELGADO