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Mr Vincenzo Salvatore  
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Brussels, 16 November 2007  
JBD/SM/kt/ D(2007)1777 C 2007-0417

**Subject: Prior checking notification of requests for external activities.**

Dear Mr Salvatore,

Thank you for your notification for prior checking of requests for external activities. Having studied the information provided in the notification, the EDPS is of the opinion that the administration of external activities does not fall to be prior checked under Article 27 of Regulation 45/2001.

Article 27(1) provides that "*Processing operations likely to present specific risks to the rights and freedoms of data subjects by virtue of their nature, their scope or their purposes shall be subject to prior checking by the European Data Protection Supervisor*". Article 27(2) lists processing operations which are likely to present such risks. This list is not exhaustive.

The notification of external activities states that there are two specific risks:

- personal data are processed which reveal ethnic origin in the form of a photo; and
- personal data are used to evaluate personal aspects of the individual, his/her ability, efficiency or conduct.

However, having studied the material provided as part of the notification, and further information provide by Ms Francesca Pavesi, it would appear that the reference to the collection of a photo in relation to the external activities file was an error, and no photograph is collected.

In reference to the use of personal data to evaluate personal aspects of the data subject, Article 27(2)(b) states that the following processing operation is likely to present a specific risk to the rights and freedoms of the data subject:

*"processing operations intended to evaluate personal aspects relating to the data subject, including his or her ability, efficiency or conduct."*

In part 4 of the notification to the EDPS, the purpose of the processing is stated as *"the collection of data regarding the external activities performed by staff Members, in order to assess whether these might conflict with EMEA mission"*. While some personal data on the individual staff members are processed when permission to undertake outside activities is requested, the focus appeared to be on the objective assessment of the activities in question, not the evaluation of staff of EMEA.

On 25 October 2007, the EDPS requested further information from Ms Pavesi, in particular asking for clarification on whether the ability, performance, efficiency or conduct of individual staff are evaluated as part of this exercise. In her response of 12 November, Ms Pavesi pointed to the statement in part 4 of the notification and confirmed unequivocally that the performance of staff members is not evaluated in this specific procedure.

As such, the EDPS is satisfied that the procedure for requesting permission for external activities is used to objectively evaluate any conflict of interest between the activity and the EMEA mission, and not to evaluate personal aspects of the staff members. As such, the procedure presents no specific risks to data subjects and does not fall to be prior checked under Article 27 of Regulation 45/2001.

Should you have any further questions about any issue raised in this letter, please do not hesitate to contact me.

Yours sincerely,

Joaquín BAYO DELGADO

Copy: Ms Francesca Pavesi, Legal Sector, EMEA