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ASSISTANT SUPERVISOR

Mr Nikolaos Fikatas
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Agency (FRA)
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Brussels, 20 June 2008
JBD/TS/ktl/ D(2008)882
C 2008-0269 and 2008-0270

Dear Mr. Fikatas,

Subject: Email system log files & Firewall - Monitoring of internet connections at FRA (Prior checking notifications 2008-269 & 270)

Dear Mr Fikatas,

After having examined the information provided in your notifications submitted on 25 April 2008 concerning Email system log files (Case 2008-269) and Firewall - Monitoring of internet connections (Case 2008-270), the EDPS has concluded that the respective processing operations are **not subject to prior checking**.

Both notifications were submitted on a basis of Article 27(2)(a) of Regulation (EC) 45/2001, noting that they concern "*security measures*". In fact, the declared purposes of the respective processing operations are the following:

- to ensure security and stability for the FRA email system and/or network,
- to detect attacks from out- and inside,
- to measure loads, as well as
- to ensure the proper functioning of the email system.

As to the email logs, only information relevant to its transmission (but not its content) is being stored.

The EDPS would like to recall that the interpretation consequently followed on the words "*security measures*" ("*mesures de sûreté*" in French) is that they refer to measures concerning natural persons in order to prevent future crimes, to ensure smooth criminal procedure, etc., as they are included in Article 27(2)(a) of the Regulation together with "*suspected offences, offences and criminal convictions*"¹.

Nevertheless, the EDPS notes that points B. and D. of the "**Standards for the use of I.T. Systems and Services of the EU Agency for Fundamental Rights**" (version 1.31 dated 4 December 2007²) provided in connection with these two notifications make reference to the possible use of data collected for security purposes for "*administrative investigations into the (ab)use of ICT by a particular member of staff*" and/or for "*disciplinary actions*". These data processing operations may therefore be subject to prior checking on a basis of Article 27(2)(b) ("*processing operations intended to evaluate personal aspects relating to the data subject*") and/or Article 27(2)(a) of the Regulation ("*processing of data relating to suspected offences*").

Consequently, as you have not yet sent us a notification on processing of personal data in the context of administrative investigations and/or disciplinary proceedings, I invite you to do so. This notification should provide for a detailed description of the actual procedure that can lead to the opening of a specific investigation (collection of anonymous statistic on the ICT use, possible investigation in case of suspected abuse when the anonymity may be lifted, access not only to the traffic data, but also to the content?).

Thank you in advance for your cooperation.

Yours sincerely,

(signed)

Joaquín BAYO DELGADO

¹ cf. Case 2007-369 (reply to the CoR DPO concerning prior checking notification on Accreditation)

² version 1.0 dated 17 February 2005 was provided in connection with Case 2006-374 ("Standards for the use of I.T. Systems and Services of the EUMC" - the predecessor of the FRA)