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ASSISTANT SUPERVISOR

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Mr Vitale,

After examining the notification of the "Mission management" processing operation, we have come to the conclusion that such processing **does not require prior checking by the European Data Protection Supervisor (EDPS)**.

The processing was notified under Article 27(1) of Regulation (EC) No 45/2001.

The EDPS could not however identify any specific risks to the rights and freedoms of data subjects by virtue of the nature, scope or purposes of the "Mission management" processing operation.

The EDPS has also checked that the processing operation did not fall under the scope of Article 27(2)(a), 27(2)(b), 27(2)(c) or 27(2)(d). For the EDPS, the mission management processing operation as set out by the Translation Centre does not seem to present the risks outlined in these articles. However, if you feel that there are other factors that could justify prior checking of the processing operation notified, we would be prepared to re-examine our position.

On reading the notification though, the EDPS would like to make various comments on the processing operation as described therein.

Firstly, the description of the processing operation refers to several processors (sub-contractors). The EDPS points out that there is a specific article in the Regulation dealing with situations where part of the processing operation is carried out by a processor on behalf of the Community body. Article 23 states that " The carrying out of a processing operation by way of a processor shall be governed by a contract or legal act binding the processor to the controller and stipulating in particular that:

- a) the processor shall act only on instructions from the controller;
- b) the obligations set out in Articles 21 and 22 shall also be incumbent on the processor unless, by virtue of Article 16 or Article 17(3), second indent, of Directive 95/46/EC, the processor is already subject to obligations with regard to confidentiality and security laid down in the national law of one of the Member States." The Translation Centre should adhere to the requirements set out in Article 23 of the Regulation.

The EDPS adds that hotels and transport companies are not processors in the sense of the Regulation's definition (Article 2(e)). It refers to recipients of mission management data, used for their own account for commercial purposes, and not for those of the Translation Centre. To that end, Article 8 of the Regulation should be complied with and the notification under Article 25 to the Data Protection Office (DPO) modified as a result.

Secondly, the notification describes the information data subjects receive as very general: practical and administrative aspects of the management of missions and the availability of the present notification on the intranet site. The register of notifications is a transparency tool and the EDPS is delighted at the fact that the notifications are available on the Translation Centre's Intranet. However, the EDPS would favour a more proactive approach to providing information on data protection itself and recommends the preparation of a specific document supplying the information listed in Articles 11 and 12 of Regulation No 45/2001. This may also take the form of a paragraph added to the mission's guide already available on the Intranet.

Lastly, the notification refers to all Translation Centre staff who carry out a mission as being a recipient of the processing operation. The EDPS would emphasise that in fact it refers to the persons concerned by the processing operation and not the recipients of the data. The notification under Article 25 to the DPO will have to be modified as a result.

We would ask you to respond to this letter by informing us of the measures taken in the light of the above recommendations within three months of receiving this letter.

(Complimentary close)

(signed)

Giovanni BUTTARELLI