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**Subject: Prior checking Opinion on the "Call for tender procedures and management of contracts at the European Economic and Social Committee (Case 2009-323).**

Dear Mr Lindvald Nielsen,

On 15 January 2009 you sent the EDPS a notification for prior checking regarding the personal data processing operations relating to the "Call for tender procedures and management of contracts at the European Economic and Social Committee" (Case 2009-323).

The notified data processing operations aim at evaluating tenders, including the professional capacity of individuals mentioned in each tender, to carry out the tasks that are the object of the tender. Therefore, these data processing is subject to prior checking by the EDPS under Article of 27.2 (b) of Regulation 45/2001 which subjects to prior checking *"the processing operations intended to evaluate personal aspects related to the data subject, including his or her ability, efficiency and conduct"*.

In the context of analysing the current data processing operations for the purpose of prior checking them, we note that all the elements of the data processing operations are the same as those described in the EDPS prior checking Opinion (2008-346) of 15 September 2008 on the European Economic and Social Committee processing operations to manage calls for tenders and contracts (case 2008-346). Indeed, the purpose of the processing, the description of the data processing operations, the types of data processed, the recipients of the data, the conservation and security measures are the same in the two sets of data processing operations.

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By email of 8 May 2009 you confirmed this similarity. It was not specified in details if the notified processing is exactly the same which was already prior-checked, with just one change concerning the data controller, or relates to a new processing quite similar to the first one. Nevertheless, you corroborated that the only difference between the two sets of data processing operations is the identity of the data controller, although in both cases, the institution to which the data controller belongs is the European Economic and Social Committee. In case 2008-346, the data controller is the unit Programming /Financial and Contractual Management of the Logistics and Translation Directorates and in the present case the data controller is the Secretariat General of the European Economic and Social Committee.

In the light of the above, the EDPS recommends that in any case the data controller implements the recommendations made in his Opinion of 2008-346. If so, the EDPS has no reason to believe that there is a breach of the provisions of Regulation 45/2001.

Yours sincerely,

(Signed)

Giovanni BUTTARELLI

*Cc :* Ms Maria ARSENE, Data Protection Officer, EESC

*Annex :* Opinion