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Dear Ms Kaarlop,

Thank you for consulting us regarding the management and confidentiality of files at the ETF.

We consider your request as a consultation under Article 46(d) and have assigned the case number 2009-0817. Please use this in any future correspondence regarding this matter.

You have asked whether documents relating to staff members (signed by the Director of the ETF) should only be kept in the personal file of the staff member or if a copy could also be stored in the Director's office safe, as a proof of all documents signed by her. You emphasised that the Human Resources Unit (HRU) of ETF advocated the former, although current practice at the ETF is the latter.

The EDPS does not take issue with the practice of keeping copies of documents as long as it relates to general correspondence and exchanges signed by the Director.

However, with regard to the situation described in your correspondence, the EDPS advises that when European institutions and bodies deal with personnel matters, they must specifically avoid the use of parallel filing systems. Therefore, the EDPS considers that the retention of copy documents relating to staff matters signed by the director cannot be justified (for instance, documents prepared by the HRU).

As was pointed out in your correspondence, the HRU refers to Article 26 of the staff regulations, which states that "*there shall be only one personal file for each official*", containing "*all documents concerning his administrative status and all reports relating to his ability, efficiency and conduct and any comments by the official on such documents*". The

system currently in use at the ETF implies a duplication of information, and the Court of First Instance has already prohibited the existence of parallel files¹.

Furthermore the EDPS is concerned that this duplication will create problems for the right of access and rectification (Articles 13 and 14 of Regulation (EC) No 45/2001) as if there is a request to rectify a document contained in a personnel file, it would also require modification in the copy stored by the Director. Due consideration of the data quality principle (mainly Article 4(1)(c) of Regulation (EC) No 45/2001) would also support filing and retention in a single dedicated personnel file as opposed to storing original documents or copies outside this file which would be deemed excessive.

Therefore in view of the above, the EDPS advises the ETF to modify its current procedure regarding documents relating to staff members signed by the Director.

Yours sincerely,

(signed)

Peter HUSTINX

¹ See *Baltsavias v Commission*, T-39/93 and T-553/93