



PETER HUSTINX
SUPERVISOR

Mr Simon BUSUTTIL MEP
European Parliament
B-1049 Brussels

Brussels, 3 December 2010
PH/KCG/et/D(2010)1934 C 2010-0056

Dear Mr Busuttill,

Following the presentation of your draft report on the proposal for a revised FRONTEX Regulation in the LIBE Committee on 15 November 2010 and further to earlier contacts with my staff, I would like to provide you with some comments related the processing of personal data by FRONTEX as envisaged in the draft report (in particular with regard to Amendment 59).

First, I would like to welcome the fact that the European Parliament, and in particular the LIBE Committee and yourself as rapporteur, are paying significant attention to the issue of the protection of personal data in the discussion on the revision of the FRONTEX Regulation. This is in line with the EDPS Opinion on the Commission's proposal adopted on 17 May 2010.

As stressed in this opinion, to the extent in which limited exchange of personal data is necessary for the fulfilment of the tasks of FRONTEX, it is of crucial importance to ensure that there are clear rules about data protection in the proposed Regulation. In other words, the proposal should not only address the question of the scope of activities that may give rise to the processing of personal data by FRONTEX, but a specific legal basis should also provide for clarification of the circumstances under which such processing by FRONTEX could take place. This should be done subject to strong data protection safeguards and in accordance with the proportionality and necessity principles. Non specification of data protection issues in the Regulation would lead to uncertainty in practice and a significant risk of non-compliance with data protection rules and safeguards.

Moreover, in order to further improve the proposal, the cooperation and synergies between FRONTEX and other bodies and agencies of the European Union, in particular Europol, should be clarified to avoid any duplication of data processing.

In this context and against this background, I would like to make some suggestions related to the wording of Amendment 59 which deals with the protection of personal data to be processed by FRONTEX. You will find these suggestions in the annex to this letter.

Please do not hesitate to contact the EDPS in case you wish to discuss this issue further or need further assistance with regard to this matter.

Kind regards,

(signed)

Peter HUSTINX

cc: Mr Emilio De Capitani, Head of Unit, Committee on Civil Liberties, Justice and Home Affairs
Ms Helene Calers, Committee on Civil Liberties, Justice and Home Affairs

Contact person: Katarzyna Cuadrat-Grzybowska

Annex