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Dear Ms López Ruiz,

On 18 November 2011, the European Data Protection Supervisor (EDPS) received by e-mail a notification for prior checking (Notification) under Article 27 of Regulation 45/2001 (the Regulation) from the Data Protection Officer (DPO) of the General Secretariat of the Council of the European Union (SGC) on the Security Awareness Computer-based Learning Modules processing operations. A request for further information was sent on 9 December, and a reply to the request was received on 12 December.

In accordance with the notification, the purpose of the processing operations is:

1. to raise awareness in order to mitigate against the risk of compromising of EU information assets;
2. to raise awareness of the security requirements related to the handling of EU Classified Information as laid out in the "Council Decision on the Security Rules for Protecting EU Classified Information 2011/292/EU";
3. to raise awareness of information assurance issues, particularly with regard to access to internet services and e-mail use.

It is further stated in the notification that the wider aim of this "Security Awareness" initiative is to contribute in the application of a set of security measures which result in a satisfactory balance between user requirements, cost and residual risk.

The categories of data subjects are officials of the GSC, other servants, service providers, seconded national experts and personnel of external firms. The data processed are administrative data, such as name as well as course results and certification.

The SGC submitted the case for prior-checking considering that the processing falls within the processing operations intended to evaluate personal aspects relating to the data subjects (Article 27.2(b)).

On the basis of the information provided, the EDPS considers that the "Security Awareness Computer-based Learning Modules" processing operations by the SGC should **not be subject to prior checking**. Indeed, the EDPS does not consider that such processing operations are intended to evaluate personal

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aspects relating to the data subject, including his or her ability, efficiency and conduct. The reasons for such conclusion are explained below.

As was pointed out by the data controller regarding the legal basis of the processing operations, Annex 1 of COUNCIL DECISION of 31 March 2011 on the security rules for protecting EU classified information (2011/292/EU) states, under section II (Authorising access to EUCI), point 3 that:

"An individual shall only be authorised to access information classified CONFIDENTIEL UE/EU CONFIDENTIAL or above after:

(a) his need-to-know has been determined;

(b) he has been granted a PSC to the relevant level or is otherwise duly authorised by virtue of his functions in accordance with national laws and regulations; and

(c) he has been briefed on the security rules and procedures for protecting EUCI and has acknowledged his responsibilities with regard to protecting such information.

This is currently achieved by weekly seminars for personnel who have obtained security clearance from their MS. At the end of the briefing attendees are asked to sign a document in which they acknowledge their responsibilities as per (c) above. Only then does the individual obtain an EU Personnel Security Clearance allowing him/her access to EUCI. Since MS security clearances are, in certain cases, issued for up to 10 (or 12) years the CBT is designed to be a mid-term refresher. Failure to pass the CBT after 3 attempts does NOT lead to any sanction but requires the individual concerned to attend a personal security briefing to ensure that s/he fully understands his/her responsibilities."

It was stated that success in these modules is neither a pre-condition of employment to the SGC nor a prerequisite for further activities within the SGC. Failing the tests may potentially have an impact on a person's authorisation when they are related to understanding the management, handling and storing of EUCI but in such case, the procedure of annex 1, Section II.3 would apply (see underlined part above).

Consequently, the processing operation does not seem to present specific risks to the rights and freedoms of data subjects by virtue of its purposes under the specific category of Article 27(2) of the Regulation.

Having analysed the other elements of the notification, the EDPS takes note that information will be supplied in a privacy disclaimer on the "Security Awareness" website's 'Learning Page', accessible to all data subjects. This privacy disclaimer contains the various elements foreseen by Article 11 and 12 of the Regulation. Moreover, the EDPS has also checked that the rights of access and to rectification were provided and he is also satisfied with the procedure established by the SGC as regards the retention of data.

As a consequence, the EDPS has decided to close this case and thanks you for your cooperation on this case.

Yours sincerely,

(signed)

Giovanni BUTTARELLI

Cc : Mr Alex LEGEIN
Mr Christian CURRAN