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Ms Catherine DAY
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Subject: Code of conduct for archives

Dear Ms Day,

Thank you for the letter of 22 October 2012, in which your services informed us about the plans of the European Board of National Archivists (EBNA) and the European Archives Group (EAG) to prepare a code of conduct for the archives sector to address the application of data protection requirements, taking into account the specificities of the sector.

I was pleased to see that the 25th EBNA conference in Copenhagen, to which I was invited in May to discuss the data protection concerns of the archives sector with regard to the proposed Data Protection Regulation, appears to have already delivered the first results in the form of this initiative. The EDPS will follow with interest the development of the code of conduct and will be available for informal consultation on key issues as needed.

I also took note of a separate letter sent by Mr Karel Velle, President of the European Branch of the International Council on Archives, to Ms Viviane Reding, Vice President of the European Commission, proposing amendments to Article 83 of the proposed Data Protection Regulation, in which Mr Velle also mentioned the plans to develop a code of conduct.

A code of conduct may indeed be helpful irrespective of the outcome of the legislative process. That being said, the final text of Article 83, as well as other provisions of the Data Protection Regulation may have a significant effect on the data protection requirements for the archives sector, and thus, also on the content of the code of conduct. Therefore, I welcome the fact that EBNA and EAG plan to follow the developments with regard the review of the

data protection framework closely and that the Commission, as a member of EAG, will also discuss the plans to develop a code of conduct with DG Justice.

In addition to cooperation with the Commission, and informal consultation of the EDPS, the Commission may also consider contacting the Article 29 Data Protection Working Party ('WP29'). The expertise of the national data protection authorities, represented in WP29, may be particularly helpful in ensuring that the code of conduct will be a genuinely useful document offering consistent guidance across Europe.

I look forward to a fruitful cooperation on this with the Commission, EBNA, EAG and WP29 in view of a duly informed and well balanced approach that should meet both the requirements of data protection law and the legitimate needs for historical archives. In this perspective, informal contacts have been established on staff level in order to discuss these plans further.

Sincerely,

(signed)

Peter HUSTINX

Cc: Mr Paul Nemitz, Director – DG JUST Fundamental Rights and Citizenship
Mr Peter Handley, Head of Unit - SG, Unit B.2
Ms Marie-Hélène Boulanger, Head of Unit – DG JUST Data Protection
Mr Philippe Renaudière, Data Protection Officer