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ASSISTANT SUPERVISOR

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Dear Ms Nesterowicz,

I refer to your e-mail of 31 October 2012 by which you submitted to the European Data Protection Supervisor (EDPS) a consultation pursuant to Article 27(3) of Regulation (EC) No 45/2001 ("the Regulation") as to the need to prior check the processing in the framework of the "My eProfile" database of the European Maritime Safety Agency (EMSA).

As you know, Article 27(1) of the Regulation subjects to prior-checking all processing operations which are likely to present *specific* risks to the rights and freedoms of data subjects by virtue of their nature, scope or their purposes. In particular, Article 27(2)(b) establishes that specific risks may occur from processing operations "*intended to evaluate personal aspects relating to the data subject, including his or her ability, efficiency and conduct*".

On the basis of the information provided, the EDPS understands that the processing concerns an internal database where the staff of the EMSA can upload their CVs if they would like to take advantage of internal mobility. The aim of the processing is to provide staff and management with accurate information on human capital available in the EMSA. Staff can upload their professional profiles and their interests in EMSA posts or areas. The database will have a matching tool to compare the interests and profiles of staff with the requirements of vacant posts or areas where additional expertise/resources is/are needed. Staff provides their personal data on a voluntary basis. The database will be accessible to HR staff and management looking for staff for the purposes of mobility. Furthermore the hierarchy will have access to the skills and knowledge of his/her staff and will be able to better match these with responsibilities.

After having carefully examined the available information, the EDPS has come to the conclusion that the above mentioned processing **shall be subject to prior checking** on the basis of Article 27(2)(b) of the Regulation. The described processing operation concerns a database as a matching tool mainly for internal mobility. However, such a tool should not be

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notified on a stand alone basis but in the framework of the controller's *internal mobility* processing activity (which is the activity intended to evaluate personal aspects pursuant to Article 27(2)(b)). Such processing through the tool of a data base for internal mobility is intended to evaluate notably the ability of candidates in order to select the best suitable staff member for a new or newly vacant post. Therefore we would invite you to notify the processing activities of the EMSA in the framework of internal mobility including the use of the "*My eProfile*" database as a tool for selecting candidates. Such database must however be however distinguished from one which would only be used for allocating tasks and responsibilities to staff members within a matrix organisation without implying internal mobility (such as finding an expert with a certain expertise/experience for a project or an expert group). The latter database would not be subject to prior checking given the fact that its purpose does not seem to be "*to evaluate personal aspects*" but would rather be considered as being day-to-day management and planning of human resources within an organisation. In such as case the database merely collects the staff's abilities already recognized during the selection and recruitment procedure and does not involve any transfer to or selection for a new post.

The EDPS thus invites you to formally notify the processing of personal data in the framework of internal mobility (including the processing through "*My eProfile*" database in this respect).

I remain at your disposal should you have any queries concerning this matter.

Yours sincerely,

(signed)

Giovanni BUTTARELLI