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THE ASSISTANT DATA PROTECTION SUPERVISOR

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Staff Regulations, Social and Medical Affairs
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Directorate-General for Personnel and Finance
Court of Justice of the European Union
L-2925 Luxembourg

Brussels, 17 July 2014
GB/KX/cpl D(2014)1551 C 2012-0611
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correspondence

Re: Opinion of the European Data Protection Supervisor on the notification received from the Court of Justice of the European Union on special allowances (Case 2012-0611)

Dear Mr Karzel,

I am writing to you concerning the notification made under Article 27(2)(a) of Regulation 45/2001 ('the Regulation') on special allowances (double dependent child allowance for a mentally or physically handicapped child, household allowance granted by special decision and treatment as a dependent child) received from the Court of Justice of the European Union ('the Court').

As requested by the EPDS, the DPO and the previous controller subsequently supplied additional information.

As this is an *ex post* notification, the two-month deadline within which the EDPS is required to give his opinion does not apply.

According to the notification, the processing is carried out in order to check whether the requirements laid down in Article 67 and Articles 1 and 2 of Annex VII of the Staff Regulations for entitlement to a special allowance, are satisfied.

Apart from administrative data, the data processed in this case include medical certificates provided by the data subject and the opinion of the Court's medical officer. In practice, the data subjects submit the completed applications to the Staff Regulations Unit ('the SRU'), and the medical documentation (medical certificates) are sent in a sealed envelope to the SRU, which forwards them to the Court's medical service for an opinion.

On the basis of the documentation received, the EDPS finds that, in this case, the processing is very similar to other processing operations which have already undergone prior checking¹. For that reason, this Opinion does not contain a full analysis of all aspects of the processing connected with data protection, but focuses on the points that need to be improved. In his analysis, the EDPS has therefore highlighted the practices that do not appear to comply with the Regulation and has made appropriate recommendations to the Court regarding those matters.

1) Data subjects

The data subjects referred to in the notification are officials, employees and members of the Court.

The EDPS wishes to emphasise that the data subjects are also any other persons connected with the persons referred to in the notification, namely their partners, ex-spouses, descendants etc. who are related to the data subjects in the ways described in the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Communities.

The EDPS recommends that those persons be added to the notification as data subjects.

2) Data storage

The notification states that the data might be stored in anonymous form for statistical purposes.

The EDPS recommends that the Court should store only categories of data in which a person cannot be identified directly or indirectly (within the meaning of Article 2(a) of the Regulation). The EDPS asks the Court to specify in the notification the exact data that it proposes to store for statistical purposes after they have been rendered anonymous.

3) Security

In view of the sensitive nature of the data being processed in this case, the EDPS recommends that the SRU staff administering the special allowance files should sign a confidentiality clause making them subject to an obligation of professional secrecy equivalent to that applicable to a health professional. This is an organisational measure within the meaning of Article 22 of the Regulation, designed to protect the confidentiality of the data processed and to prevent unauthorised access to those data.

¹ See, for example, the Opinion of the EDPS of 5 December 2008 on the notification from the Commission (Case 2008-0439) and the Opinion of the EDPS of 7 July 2008 on the notification from the Council (Case 2008-0405).

In the light of the foregoing, the proposed processing operation does not appear to involve any infringements of the provisions of the Regulation, provided that the above recommendations are taken into account. The EDPS requests the Court to send him, within three months of receipt of this letter, (i) the updated notification and (ii) a model confidentiality clause showing that his recommendations have been implemented.

Yours sincerely,

(signed)

Giovanni BUTTARELLI

Cc: Mr Agostino Valerio PLACCO, Data Protection Officer