

Ms Petra Karlsson
Data Protection Officer
Committee of the Regions
Rue Belliard, 101 (Office 41/16)
B-1040 Brussels

Brussels, 18 July 2005
JBD/SL/ab D(2005) 445 C 2005-0175
Resent on 22/08/2005

Dear Ms Karlsson,

We hereby confirm that we have received the notification concerning the processing of requests and complaints submitted to the legal service in accordance with Article 90.1 and 2 of the Staff Regulations (case 2005-0175).

After examining the content of the notification, we have come to the conclusion that even though the case includes the processing of personal data, it is not subject to prior checking under Article 27 of Regulation (EC) N° 45/2001.

Article 27(1) submits for prior checking, processing operations likely to present specific risks to the rights and freedoms of data subjects by virtue of their nature, their scope or their purposes. There are no specific risks present in this case.

Article 27(2) of the Regulation contains a list of processing operations likely to present specific risks to the rights and freedoms of data subjects by virtue of their nature, their scope or their purposes. One must examine to what extent the grounds on which the notification for prior check has been made are relevant.

As concerns Article 27(2) a: "*processing relating to health and to suspected offences, offences, criminal convictions or security measures*". From the information received, "some data relating to health and, in rare cases, to suspected offences etc, could be processed when examining the cases and preparing replies to requests and complaints". Article 27(2)a is aimed essentially at processing operations whose main purpose is the processing of data relating to health and to suspected offences, offences, criminal convictions or security measures. The mere possibility of the presence of such data does not automatically make it a case for prior checking. In the notified processing operation, the presence of such data is neither systematic nor necessary in every case. Nevertheless, the presence of sensitive data in the handling of these complaints such as health related data or data relating to offences does entail that particular attention should be given to the adoption of security measures in conformity with Article 22 of the Regulation and this seems to be the case in the analysed operation.

As concerns Article 27(2)b: "*Processing operations intended to evaluate personal aspects relating to the data subject*", it seems that the processing operation itself is aimed at replying to complaints and requests submitted by the data subject which in some cases could be related to an evaluation of his/her personal aspects. However the main purpose of the processing is not the evaluation of the data subject.

Finally, as for Article 27(2)d: "*processing operations for the purpose of excluding individuals from a right, benefit or contract*", this is aimed at processing operations whose specific and sole purpose is to exclude persons from a right, benefit or contract, such as black lists. This is not the case here even if the processing operation could possibly result in excluding an individual from a right, benefit or contract, but also in including him/her.

We therefore believe that the processing operation does not qualify for prior checking and have decided to close the case, unless you can give us specific grounds to reconsider.

Yours sincerely,

Joaquín BAYO DELGADO