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ASSISTANT SUPERVISOR

Mr Rastislav Spáč
Data Protection Officer
European Economic and Social
Committee
Rue Belliard 101
B-1040 BRUSSELS

Brussels, 25 November 2010
GB/IC/kd D(2010)1874 C 2010-0900

Re: Notification for prior checking in relation to the transfer of officials to the Committee of the Regions

Dear Mr SPÁČ,

Having examined the notification regarding the transfer of officials to the Committee of the Regions (EDPS Ref.: Case 2010-0900), we conclude that this case **is not subject to prior checking by the EDPS**.

Notification of the processing was sent pursuant to Article 27(2)(b) of Regulation (EC) No 45/2001 (hereinafter "the Regulation").

Article 27(1) of the Regulation provides that "*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*" are to undergo prior checking.

More specifically, Article 27(2) of the Regulation contains a non-exhaustive list of processing operations likely to present such risks, in particular "*processing operations intended to evaluate personal aspects relating to the data subject, including his or her ability, efficiency and conduct [...]*" (Article 27(2)(b)).

The EDPS notes that the processing described in the notification refers to a system for managing the interinstitutional transfer of officials, both for those leaving, as for those transferring to, the Committee. The aim of this processing is to ensure that the rights of officials continue on their arrival at, and on their departure from, the Committee.

As described in the notification, the data processing is not aimed therefore at evaluating the officials following a request for interinstitutional transfer. Furthermore, the EDPS notes that the Committee has already carried out a prior check of the processing in the recruitment of officials which involves an evaluation process (EPDS Ref.: Case 2008-0694). On 16 June 2009, the EDPS gave an opinion in this Case which states that the processing under examination deals in particular with the interinstitutional transfer of officials. Therefore, the EDPS has already carried out a prior check of the evaluation process of the officials by the Committee within the context of an interinstitutional transfer.

If you still consider that there are other reasons which justify prior checking by the EDPS, we are willing to reconsider our opinion. Similarly, in the event of any modification to this data processing we would kindly ask you to assess the need for submission of this processing to the EDPS for prior checking.

Yours sincerely,

(signed)

Giovanni BUTTARELLI