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Dear Mr Placco,

I refer to your consultation within the meaning of Article 27(3) of Regulation (EC) No 45/2001 ('the Regulation') concerning use of the 'Wiki Direction' tool by assessors of DG Translation of the Court of Justice ('processing in question').

In the course of drafting annual assessment reports, assessors have to consult the reports for previous years. In the past, assessors had to submit a request for access to Personnel in order to obtain a paper copy of the reports in question. Assessors now have direct access to electronic versions of personnel assessment reports, which are saved on 'Wiki Direction', a page on the Court's DG Translation intranet.

In the wake of his examination of the documents forwarded<sup>1</sup>, the European Data Protection Supervisor (EDPS) takes the view that the processing in question is **not subject to prior checking** by the EDPS within the meaning of Article 27 of the Regulation.

Indeed, the processing of personal data in connection with the Court of Justice's personnel evaluation procedure underwent prior checking and was the subject of an opinion from the EDPS dated 4 July 2005<sup>2</sup>. The notification indicates that evaluation reports are filed in the official's personal dossier and that processing is manual. We recently indicated that digitisation of personal dossiers was not subject to prior notification to the EDPS<sup>3</sup>.

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<sup>1</sup> Covering letter of 25 June 2013, notification pursuant to Article 25 of the Regulation, a document entitled '*Description of security measures*' and a document entitled '*Wiki Direction - Information relating to personal data processing*'.

<sup>2</sup> Dossier 2004-0281.

<sup>3</sup> See EDPS letter of 8 May 2013 in the wake of a consultation pursuant to Article 27(3) of the Regulation (Dossiers 2013-0417 and 2013-0418).

In the case in point, your consultation relates solely to change of the technical support for access to DG Translation's personnel assessment reports. As you point out quite rightly in your consultation request, the issue is that of knowing whether this change *per se* gives rise to a specific risk within the meaning of Article 27(1) of the Regulation, and the two pertinent aspects in this regard are access to the reports and security measures<sup>4</sup>.

As regards access to reports, the notification (Article 25) and the information form ('*Wiki Direction – Information relating to personal data processing*'), appended to your correspondence, state that the addressees of the data are the assessors<sup>5</sup>. Under the 'need-to-know' principle, assessors may have access only to assessment reports of those persons in respect of whom they have to provide an assessment. This restriction on access should appear clearly not only in the notification but also on the information form.

As regards security measures, the EDPS would point out that all the provisions of Article 22 of the Regulation must be fulfilled, and in particular paragraph (2) thereof, which relates to automated processing. These measures must, in particular, guarantee confidentiality, integrity and availability of data. The safety measures described in the second annex to the notification appear to be adequate in this regard.

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Independently of the issue of prior checking, we would draw your attention to the fact that the processing in question must comply with all the conditions of the Regulation, and we recommend that you proceed with the following changes to the notification and the annexes thereto:

- make provision expressly for assessors solely to have access, on Wiki Direction, to the evaluation reports of those persons in respect of whom they have to provide an assessment, adding this specification to the security measures appended to the notification;
- change the title of the notification pursuant to Article 25 in order to clarify the subject thereof (e.g.: 'DG Translation - Assessor access to previous personnel evaluation reports');
- add, to point 15 of the notification, that transfers are envisaged within the institution (towards the assessors) and between the institutions (cf. potential addressees mentioned in point 12(a) of the notification).

We would ask you to confirm implementation of these recommendations within three months of the date of despatch hereof.

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<sup>4</sup> Idem.

<sup>5</sup> The notification (point 12(a)) also sets out a series of institutions as potential addressees, doing so within the context of their respective missions.

We remain at your disposal should you require any further information.

Yours sincerely,

**(signed)**

Giovanni Buttarelli  
Assistant Supervisor