



JOAQUIN BAYO DELGADO  
ASSISTANT SUPERVISOR

European Commission  
DG INFSO  
B-1049 Brussels

Brussels, 4 December 2008  
JBD/HK/kt1/D(2008)1800 C 2008-0622

Dear

I am writing you in relation to a complaint which the European Data Protection Supervisor (EDPS) has received from Ms.

As you know, the EDPS is the independent supervisory authority established under Article 41 of Regulation (EC) No 45/2001. One of the duties of the EDPS is to hear and investigate complaints, and inform the data subject of the outcome of those investigations within a reasonable time. To assist the EDPS in this regard, Article 47 of Regulation (EC) No 45/2001 provides that the EDPS shall have the power to obtain from a controller, or Community institution or body, access to all personal data and to all information necessary for his enquiries.

The complaint states that, in the context of an external audit performed by the Commission from : 2008 to : 2008, the business premises of  
were visited and four persons were interviewed, amongst which Ms. who  
worked for

In the draft audit report which the Commission sent to and which was annexed to the complaint, the Commission suggested that was not chosen on the sole basis of economic considerations by its partner in certain projects, namely . The Commission took the view that the selection was influenced by the fact that Mr. working for the group and acting as EC coordinator, was the husband of Ms.

Ms. now alleges that, without her consent, confidential data about her (namely a Framework contract closed between her and as well as the interview she had with Mr. during the audit) was transferred by Commission officials to a third party, namely the head of internal audits ('Chef der internen Revision') at

The EDPS is aware of the fact that you already received a complaint lodged by on the same matter (see Annex I). Upon request of Ms., the EDPS focuses on the data protection aspects of that complaint. Since the transfer of the data to could be contrary to the provisions of Regulation 45/2001, more specifically Articles 4, 5, 6 and 8, the

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Postal address: rue Wiertz 60 - B-1047 Brussels

Offices: rue Montoyer 63

E-mail : [edps@edps.europa.eu](mailto:edps@edps.europa.eu) - Website: [www.edps.europa.eu](http://www.edps.europa.eu)

Tel.: 02-283 19 00 - Fax : 02-283 19 50

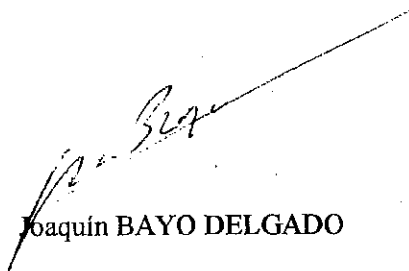
EDPS wishes to be informed about the matter in greater detail and to obtain your views on the issue.

I would therefore like to ask you to indicate whether this transfer has indeed taken place and - if the answer to this question is confirmative - to inform the EDPS about the legal basis of this transfer and your views on the matter. Of course any additional information is welcome if you think that might contribute to a full understanding of what has happened. You are kindly asked to provide the EDPS with an answer to these questions within six weeks of the receipt of this letter.

I furthermore wish to inform you about the fact that the complaint should be dealt with confidentially. Ms. [redacted] specifically requested us that [redacted] would not be informed about her complaint. Therefore, the Commission should obtain prior authorization of the EDPS if the involvement of [redacted] is considered necessary.

Should you wish any information you provide to remain confidential, please indicate the specific section and reasons in your response. If you need further clarification of the questions I have raised, please do not hesitate to contact me.

Yours sincerely,



Joaquín BAYO DELGADO

*Annex I:* Complaint of

Cc:

Data Protection Officer of the Commission