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Press release on Chapter II of the draft regulation for the March JHA Council

On 13 March, the Justice and Home Affairs Council had the opportunity to discuss the reform of the EU data protection legal framework and adopted a partial general approach, in particular on Chapter II of the draft General Data Protection Regulation which contains the basic principles relating to data processing.

The Working Party is very much concerned about the proposed provisions on further processing, especially in the context of Big Data. In fact, according to the Council, it will be possible for a data controller to further process data even if the purpose is incompatible with the original one as long as the controller has an overriding interest in this processing.

This new possibility offered to the data controller opens serious concerns in the data protection community.

The Working Party considers that this situation would render one of the fundamental principles of the data protection framework, the purpose limitation principle, meaningless and void. The principle is enshrined in Article 8(2) of the Charter of Fundamental Rights of the EU.

Such an approach, which conflates the notions of legal basis and further processing for compatible purpose, contradicts the EU data protection acquis and would be illegal under the current legal framework. It could furthermore have no other consequence but to undermine the whole new data protection framework and to dilute the level of protection for EU citizens in comparison to Directive 95/46/EC in force.

In this context, the Working Party calls upon the Member States, the Commission and the European Parliament to take up their responsibilities to ensure that the wording related to further processing in Chapter II of the future Regulation is modified and that the fundamental right to data protection of EU citizens is adequately protected.

Background information

The Article 29 Working Party on the Protection of Individuals with regard to the Processing of Personal Data is an independent advisory body on data protection and privacy, set up under Article 29 of the Data Protection Directive 95/46/EC. It is composed of representatives from the national data protection authorities of the EU Member States, the European Data Protection Supervisor and the European Commission. Its tasks are described in Article 30 of Directive 95/46/EC and Article 15 of Directive 2002/58/EC. The Article 29 Working Party is competent to examine any question covering the application of the data protection directives in order to contribute to the uniform application of the

directives. It carries out this task by issuing recommendations, opinions and working documents.

http://ec.europa.eu/justice/data-protection/index_en.htm