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NOTE

From: Věra Jourová, Member of the European Commission
On: 9 February 2018
To: Tsetska Tsacheva, Minister of Justice of Bulgaria

Subject: Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation)

Delegations will find in Annex a letter from Věra Jourová, Member of the European Commission on the above-mentioned Regulation.

VĚRA JOUROVÁ
Member of the European Commission

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Dear Minister,

I am writing to you as a follow up to our discussions on the General Data Protection Regulation (GDPR) during the informal Justice and Home Affairs Council in Sofia which took place on 26 January 2018. This discussion had a particular significance since it took place a little more than 100 days before the entry into application of the data reform package, and the Police Directive.

As we are now in the final straight of preparations, I find it an appropriate moment to take stock of where we are and what else needs to be done to ensure that rules apply smoothly in May.

This is why the Commission issued on 24 January a Communication entitled "Stronger protection, new opportunities – Commission guidance on the direct application of the General Data Protection Regulation as of 25 May 2018". On this occasion, we also made available an online toolkit available in all EU languages which will be regularly updated. It is aimed at those actors who are least aware of the new rules, in particular citizens and SMEs, making reference every time it is relevant to the guidelines developed by the Article 29 Working Party.

The GDPR will strengthen the protection of the individual's right to personal data protection. By providing for a single set of rules and guaranteeing the free flow of personal data across the EU, it will open up new opportunities for businesses and companies and support the development of new services in the context of the Digital Single Market strategy.

Even though the new data protection framework has been built on the existing legislation in place for the last two decades, it will have a wide ranging impact and requires significant adjustments in certain aspects. Since its adoption in May 2016 and the start of the two-year transition period until May this year, all actors have engaged into the necessary preparatory work.

The Commission has actively contributed to this: for instance, we organised 13 meetings of the Expert Group with national authorities to share experience and expertise (a new meeting will take place in February). We supported the work of the Data Protection Authorities in the framework of the Article 29 Working Party and the transition towards the European Data Protection Board that will be set up in May. And we reached out to stakeholders by organising events dedicated to the GDPR aimed for instance at the health industry or the SMEs.

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However, the work for the application of the GDPR has primarily to be carried out at national level. Although the GDPR is a directly applicable Regulation, Member States have to take the necessary steps to adapt their legislation by repealing and amending existing laws, and setting up national data protection authorities, choosing an accreditation body and laying down the rules for the reconciliation of freedom of expression and data protection.

In this context, I would like to stress that ensuring the complete independence of data protection authorities and providing them with the human, technical and financial resources necessary for the effective performance of their tasks and exercise of their powers is a legal obligation. To date, only two Member States have adopted relevant national legislation for the application of the GDPR. It is essential for all those concerned that the legislative framework is in place sufficiently in advance of the May deadline.

As you are well aware Member States have also been provided by the GDPR with the possibility to further specify the application of data protection rules in specific fields, such as health. Here, as the discussion in the above mentioned GDPR Expert Group has highlighted, it is essential to avoid fragmentation of the Digital Single Market and avoid measures that would impinge the free flow of data.

More generally, it is important to recall that the national legislator can neither copy the text of the GDPR when it is not necessary in the light of the criteria provided by the case law, nor interpret it or add additional conditions to the rules directly applicable under the GDPR.

My services are ready to maintain the on-going close cooperation with their national counterparts in this context. Our objective is to solve as many issues now rather than after May

For the GDPR to be a success, we need to properly inform and advise citizens and businesses, in particular SMEs. We hope that our online toolkit, which will be disseminated through an information campaign, will help in this respect.

The Commission, following a call for proposal issued last year, is in the process of allocating grants that can be used to provide training within data protection authorities, public administrations, legal professions and data protection officers.

In order to specifically support data protection authorities in their reaching out to stakeholders, we also issued a call for proposals designed to support them in their activities aimed at SMEs and citizens.

I would be grateful if you could share your initiatives in informing stakeholders about the new rules and replying to their questions.

In conclusion, with less than four months left before the entry into application of the data reform package, I would like to stress the importance for all Member States to make all necessary efforts to complete all legislative and organisational steps before the May deadline on one hand, and to

reach out to stakeholders, in particular citizens and SMEs, to create the necessary climate of trust for the proper functioning of the Digital Single Market, on the other hand.

Yours sincerely



Věra Jourová