



The Secretary General

*To Mr Claude Moraes
President of the LIBE Committee of the European Parliament
Member of the European Parliament*

Brussels, 15 September 2015

Re.: European General Data Protection Regulation

Dear Mr Moraes,

In line with the letter sent last June, CEMR - the European umbrella association representing 150,000 local and regional authorities across Europe (including 100,000 in the European Union) - is providing input to the negotiation.

CEMR is supporting reform of the data protection rules to guarantee citizens' rights. At this stage of the Trilogue we want to highlight that the revision of data protection legislation at European level must establish a differentiated approach between public sector and private companies. The public sector is entrusted with the collection, storage and processing of personal data in fulfilling their missions of general interest and delivering effective public services, whereas the private sector uses data for commercial purposes.

CEMR has prepared a detailed table highlighting its main issues and illustrating how most problematic articles for local and regional authorities should be adopted, rejected or amended to meet public sector needs.

- **Flexibility for the public sector is essential.** The public sector uses personal data to provide services for public general interest, and as such has a duty and responsibility to treat personal data in a way that safeguards trust. In addition, public sector is subjected to several legal frameworks, detailing its competences and incurred means of action. In that perspective, flexibility is a pre-requisite to ensure legal certainty and efficiency of the exercise of public authority. This compulsory flexibility goes along with the necessity to avoid any additional administrative burden, which would entail extra costs at the citizens' expense and would hamper the efficiency of the public services delivery.

For example: Subject matter and objectives (Article 1), Material scope (Article 2), Definitions (Article 4), Lawfulness of processing (Article 6), Principles relating to personal data processing (Article 5), Conditions for consent (Article 7), Processing of personal data of a child (Article 8), Processing of special categories of personal data (Article 9, 9a).

- **Opportunities for promoting digitalisation in the public sector should not be hampered by the introduction of unsuitable data protection rules.** Digitalisation can transform the

traditional public services into more citizen-oriented high quality services, if the potential of digitalisation can be use efficiently. Data protection rules for the public sector should guarantee citizens' rights without jeopardising innovative ways of digitalisation such as the use of big data, open data, profiling, electronic archives, cloud services in public services.

For example: Procedures and mechanisms for exercising the rights of the data subject (Article 12), Information to the data subject (Article 13 a, 14, 14 a), Right of access for the data subject (Article 15), Right to rectification (Article 16), Right to be forgotten and to erasure (Article 17), Right to data portability (Article 18), Measures based on profiling (Article 20), Penalties (Article 78), Administrative sanctions (Article 79, 79b), Processing of personal data and freedom of expression (Article 80), Processing of personal data concerning health (Article 81), Processing for historical, statistical and scientific research purposes (Article 83), Exercise of the delegation (Article 86).

- **Regulation should not increase the administrative burden and create costs for local and regional governments without bringing visible value to the economy as well as to the citizens.** Costs of implementation of the Regulation have been estimated up to €292 million/year (£250 million) in the UK, €200 million in the first years in Finnish local and regional authorities and at least €80,5 million for Danish local authorities. Therefore it is necessary to deliver evidence that ensures the suitable proportionality between costs and benefits, and the appropriate economic balance of the new Regulation's outcomes. Local and regional authorities oppose any new provision which would force them, for example, to hire inordinate data protection officers, to significantly invest in ICT services and to (re)train their staff, without there being clear added-value for citizens or for improved delivery of public services.

For example: Responsibility of the controller (Article 22), Data protection by design and by default (Article 23), Documentation (Article 28), Notification of a personal data breach to the supervisory authority (Article 31), Communication of a personal data breach to the data subject (Article 32, 32a), Data protection impact assessment (Article 33),),

- **Employment conditions should be excluded from the scope of the Regulation.** Local governments undoubtedly require room for manoeuvre, as regards social agreements and collective bargaining.

For example: Designation of a data protection officer (Article 35), Position of the data protection officer (Article 36), Tasks of the data protection officer (Article 37), Processing in the employment context (Article 82).

CEMR wishes that the negotiating partners will use the input provided in the table to safeguard the well-functioning and effective public sector.

Please contact Cédric Flin, Policy Adviser Local and Regional Public Services Management (Cedric.Flin@ccre-cemr.org; tel + 32 2 213 86 96) should you have any question concerning our views.

Yours sincerely,



Frédéric Vallier