



EUROPEAN PARLIAMENT

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Committee on Legal Affairs

24.4.2012

NOTICE TO MEMBERS

(0045/2012)

Subject: Reasoned opinion by the Italian Chamber of Deputies on the proposal for a regulation of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation) (COM(2012)0011 – C7-0025/2012 – 2012/0011(COD))

Under Article 6 of the Protocol (No 2) on the application of the principles of subsidiarity and proportionality, any national parliament may, within eight weeks from the date of transmission of a draft legislative act, send the Presidents of the European Parliament, the Council and the Commission a reasoned opinion stating why it considers that the draft in question does not comply with the principle of subsidiarity.

Under Parliament's Rules of Procedure the Committee on Legal Affairs is responsible for compliance with the subsidiarity principle.

Please find attached, for information, a reasoned opinion by the Italian Chamber of Deputies on the above-mentioned proposal.

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United in diversity

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Reasoned opinion of the Italian Chamber of Deputies

Document approved by Committee XIV

Committee XIV (European Union policies),

having considered the proposal for a regulation of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data and on the free movement of such data (COM(2012)11 final);

whilst appreciating the aim of reducing the considerable differences between national laws in a matter so delicate as to affect the fundamental rights of individuals, and the attempt to establish high standards of protection to be applied throughout the European Union;

noting, however, that the rules laid down in the proposal for a regulation address, in several sections, issues that are clearly critical with regard to the principle of subsidiarity, in relation to certain provisions of particular importance:

(a) firstly, because the subject matter falls under constitutional law or, in any case, affects the fundamental principles of national laws;

(b) secondly, because the determination of uniform standards could be to the detriment of more favourable national arrangements, which could lead to existing safeguards being reduced. It would therefore need to be explicitly stated that the rules are without prejudice to more favourable national provisions;

pointing out that the granting to the Commission of extremely wide-ranging powers through the across-the-board conferment, under Article 87, of the authority to adopt delegated acts with regard to nearly all the most important aspects of the proposed regulation, conflicts with the principle of subsidiarity;

having considered, moreover, again with reference to subsidiarity, that the provisions set out in Article 51 under which, where the data controller is established in more than one Member State, the supervisory authority of the main place of establishment of the data controller becomes a 'one-stop shop' in all Member States, could deprive citizens of the option of turning to the supervisory authority of their own Member State, making it more difficult for them to actually exercise their rights;

a further matter of concern stems from the fact that, in spite of the decision to replace the existing directive by resorting to the more detailed instrument of a regulation, the text suffers from obvious shortcomings due to the absence of specific definitions with regard to subjects of particular importance, such as in the 'right to be forgotten' in Article 17 (this shortcoming had already been pointed out by the European Parliament in its resolution adopted on 6 July 2011) and in the restrictions on the scope of the obligations and rights relating to the processing of personal data under Article 21; as regards the latter article, its

vagueness is likely to lead to significant differences in implementation between Member States, which could result in uncertainty and litigation;

hereby delivers a

REASONED OPINION

pursuant to Article 6 of Protocol No 2 annexed to the Treaty on European Union and the Treaty on the Functioning of the European Union.