In its role as guardian of the Treaties, the Commission monitors the application of the General Data Protection Regulation (GDPR). This includes the monitoring of the consistent interpretation of the GDPR across the EU. In this context, the Commission monitors actively any inconsistency of guidelines and other explanatory instruments adopted at national level with those adopted by the Board. The Dutch data protection authority issued a standard explanation note on the legitimate interest ground which substantially differs from the EU level guidelines and the GDPR, which in Recital 47 stipulates that processing of personal data for direct marketing purposes may be regarded as carried out for a legitimate purpose.

The enforcement of the application of the GDPR in individual cases, such as an action against an individual journalist, falls within the competence of the national authorities and courts. The Commission has no power to review individual decisions of the data protection authorities. Pursuant to Article 78 GDPR, such powers are the exclusive remit of the competent national courts.

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3 Working Party 29 opinion 06/2014 on the notion of legitimate interests of the data controller under Article 7 of Directive 95/46/EC.