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MI 44
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COMIX 40
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NOTE

from: Presidency

to: Working Party on Data Protection and Exchange of Information

No. prev. doc.: 15703/4/12 REV 4 DATAPROTECT 122 JAI 752 DAPIX 137 MI 678
FREMP 131 DRS 121 COMIX 608 CODEC 2555
16525/12 DATAPROTECT 132 JAI 819 DAPIX 145 MI 753 FREMP 141
DRS 131 CODEC 2744
16529 DATAPROTECT 133 JAI 820 MI 754 DRS 132 DAPIX 146 FREMP 142
COMIX 655 CODEC 2745

Subject: Implementation of risk-based approach in the General Data Protection Regulation

1. At the JHA Council meeting in December 2012, DAPIX was instructed to continue to work on concrete proposals to implement a strengthened risk-based approach in the text of the draft Regulation. This Presidency paper seeks to take account of Member State concerns set out specifically in replies to the questionnaire on administrative burdens (15703/4/12 REV 4) and more generally during DAPIX discussions on Chapters III and IV.
2. The purpose of the Presidency paper is to provide a concrete basis for incorporating such a risk-based approach, in particular in Chapter IV (Controller and Processor) (see annex 1), and in certain articles in Chapter III (Rights of the Data Subject) (see annex 2).

3. Annex 1 contains proposals for significant changes to several important articles in Chapter IV, especially articles 22, 23, 26, 28, 30, 31, 33, 34 and 35. The objective is to incorporate a risk-based approach, clarify and streamline the text **DELETED**

4. Annex 2 contains proposals for significant changes to several important articles in Chapter III, including articles 12, 14 and 15. The objective of these changes is to ensure effective and efficient exercise of data subject rights, while improving certainty and transparency.
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5. The Presidency has sought to incorporate these changes into the revised draft of the Regulation issued at the end of the Cyprus Presidency. As the changes introduced into document had not yet been discussed, the underlined text has been kept. New changes are indicated in underlined bold text.

6. The proposals set out in articles 17, 18, 20 and 21 of Chapter III will be examined at a later stage.

7. While the focus in this paper is on certain articles in Chapter III and Chapter IV, the Presidency recognises that a risk-based approach to implementation may be considered appropriate in certain other cases. These cases can also be discussed at a later stage.

8. The Presidency intends to report to the JHA Council meeting on 7/8 March on the progress being made in developing concrete proposals for implementing a strengthened risk-based approach in the draft Regulation.

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