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THE EUROPEAN UNION**

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**LIMITE**

**DATAPROTECT 27  
JAI 149  
MI 151  
DRS 40  
DAPIX 38  
FREMP 21  
COMIX 124  
CODEC 434**

**NOTE**

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from: Presidency  
to: Friends of the Presidency (Data Protection)

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No. prev. doc.: 5702/13 DATAPROTECT 2 JAI 47 MI 44 DRS 17 DAPIX 6 FREMP 3  
COMIX 40 CODEC 155  
6828/13 DATAPROTECT 25 JAI 142 MI 147 DRS 38 DAPIX 36 FREMP 19  
COMIX 119 CODEC 421

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Subject: General Data Protection Regulation - Pseudonymous data

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1. It is intended that this short paper will provide the basis for a discussion on the use of pseudonymous data at the ‘Friends of the Presidency’ meeting on 12 March 2013.
2. The Presidency’s paper on implementation of a risk-based approach,<sup>1</sup> in particular, in Chapter IV of the General Data Protection Regulation, introduced references to the possible use of pseudonymous data in Article 23 (Data protection by design and default) and Article 30 (Security and confidentiality of processing). This was based on the Presidency’s belief that rendering personal data pseudonymous could assist controllers and processors in meeting their obligations under the Regulation to implement appropriate technical and organisational measure in order to protect and secure personal data under their control.

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<sup>1</sup> 5702/13 DATAPROTECT 2 JAI 47 MI 44 DRS 17 DAPIX 6 FREMP 3 COMIX 40  
CODEC 155.

3. The Presidency's approach to the definition of pseudonymous data is as follows:

“rendering personal data pseudonymous” means processing personal data in such a way that the data cannot be attributed to a specific data subject without the use of additional information which would allow such identification; such additional information shall be kept separately and shall be subject to technical and organisational measures to ensure non-attribution.

The Presidency also considers that it should be clarified that the processing of personal data in order to render the data pseudonymous comes within the ‘legitimate interests’ ground in Article 6.1(f) of the Regulation.

4. Unlike anonymous data<sup>1</sup>, personal data which has been rendered pseudonymous continues to come within the scope of the Regulation. The extent to which it can contribute to calibrating controllers’ and processors’ data protection obligations remains fully to be explored.
5. There is an example of how such obligations could be calibrated in the revised text of Article 32<sup>2</sup>: paragraph 2 provides that communication of a data breach to the data subject shall not be required where technological protection measures such as encryption or the use of pseudonymous data have been implemented.
6. In Chapter II, a reference to pseudonymous data has also been introduced in Article 14a: paragraph 4 provides that the information requirements in paragraphs 1 to 3 may not apply in certain cases where appropriate measures have been taken to protect the data subject’s legitimate interests, including where the data have been rendered pseudonymous.
7. As regards Chapter IX, the possibility of introducing specific references to pseudonymous data in Article 81 (Processing of personal data concerning health) and Article 83 (Processing for historical, statistical and scientific purposes) should also be considered.
8. The Presidency invites Member States to explore further the use of pseudonymous data as a means of calibrating controllers’ and processors’ obligations under the Regulation.

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<sup>1</sup> The Presidency considers that the possibility of specifically excluding anonymous data from the material scope of the Regulation in Article 2.2 should be discussed.

<sup>2</sup> 5702/13 DATAPROTECT 2 JAI 47 MI 44 DRS 17 DAPIX 6 FREMP 3 COMIX 40 CODEC 155.