

DECISION

on the adequate protection of personal data provided in Guernsey

In accordance with the provisions of Article 3 paragraphs (5) and (6) of Law no. 102/2005 on the setting up, organization and functioning of the National Supervisory Authority for Personal Data Processing and those of Article 6 paragraph (2) letter b) of the Regulation on the organization and functioning of the National Supervisory Authority for Personal Data Processing,

in the enforcement of the provisions of Article 29 paragraph (1) and (2) of Law no. 677/2001 on the protection of individuals with regard to the processing of personal data and the free movement of such data, modified and amended,

in the enforcement of the provisions of European Directive 95/46/EC of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data and the free movement of such data,

in order to transpose the provision of the European Commission Decision no. 2003/821/EC, adopted on the basis of the European Directive 95/46/EC of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data and the free movement of such data, concerning the adequate level of protection for the personal data in Guernsey,

having regard to Directive 95/46/EC provisions, The Bailiwick of Guernsey is considered a third state,

in view of Guernsey Law of 2001 with regard to data protection, which entered into force on 1st of August 2002,

in view of the United Kingdom's ratification of the Council of Europe Convention on the Protection of Individuals with regard to automatic processing of personal data (Convention No 108) was extended to the Bailiwick of Guernsey in August 1987,

in view of Approval Report no. 6660 of 30th of November 2006 of Authorizations Office within the National Supervisory Authority for Personal Data Processing with regard to the recognition of an adequate level of protection for the personal data protection in Guernsey,

the President of the National Supervisory Authority for Personal Data Processing issues the following

DECISION:

Art. 1

The personal data transfer to Guernsey may take place only by observing the provisions of Article 29 paragraphs (1) and (2) of Law no. 677/2001 on the protection of individuals with regard to the processing of personal data and the free movement of such data, modified and amended, due to the fact that this state ensure an adequate level of protection for personal data.

Art. 2

(1) The National Supervisory Authority for Personal Data Processing may dispose the suspension or the cession of personal data transfer to Guernsey in order to protect the fundamental rights of the persons subject to personal data processing in one of the following cases:

- (a) a competent Guernsey authority has determined that the recipient is in breach of the applicable standards of protection;
- (b) there is a substantial likelihood that the standards of protection are being infringed; there are reasonable grounds for believing that the competent Guernsey authority is not taking adequate steps to settle the case at issue; the continuing transfer would create an imminent risk of grave harm to data subjects and the party responsible for processing established in Guernsey with be noticed, in advanced, in order to have the opportunity to respond.

(2) The suspension shall cease as soon as the National Supervisory Authority for Personal Data Processing is notified with regard to the ceasing of the motifs which determined adopting these measures.

(3) The competent authorities in Romania shall inform the Commission without delay when measures are adopted on the basis of paragraphs (1) and (2).

(4) The competent authorities in Romania and the Commission shall inform each other of cases provided in paragraph (1) where the action of bodies responsible for ensuring compliance with the standards of protection in Guernsey fails to secure such compliance.

Art. 3

This decision transposes the European Commission Decision no. 2003/821/EC, adopted on the basis of the European Directive 95/46/EC of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data and the free movement of such data, concerning the adequate level of protection for the personal data in Guernsey, decision which was published in the Official Journal of the European Communities no. L 308/27 of 25th of November 2003.

Art. 4

This Decision will be published in the Official Journal of Romania, Part I.

PRESIDENT,

Georgeta BASARABESCU

Bucharest, 14th of December 2006

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