

EFJ, EMMA, ENPA and EPC statement on the need to preserve press freedom and journalism in the EU draft General Data Protection Regulation

Call by journalists and publishers across Europe to safeguard press freedom and journalism under Article 80

3 December 2013

EFJ, the European Federation of Journalists, ENPA, the European Newspaper Publishers' Association, EMMA, the European Magazine Media Association, and EPC, the European Publishers' Council, are extremely concerned that the approach taken by the European Parliament's LIBE Committee and taken in the latest Council text on Article 80 of the draft General Data Protection Regulation seriously undermines press freedom and journalism.

A directly binding exemption in the draft Regulation for journalistic data processing is essential to ensure that journalists and publishers can continue fulfilling their democratic mission as regards investigating, reporting, writing and publishing editorial content without any obstacle, and to guarantee that sources are adequately protected. It has to be ensured that with the change to a Regulation, the current level of protection will not be lowered in each Member State.

The approach on Article 80 taken by the **European Parliament's Civil Liberties (LIBE) Committee in its orientation vote on 21 October 2013 on the draft Data Protection Regulation is not acceptable**. The existing exemption as well as the Commission proposal have been significantly weakened in the "compromise" amendment adopted. All references to press and journalistic activities have been removed and the application of the exemption for journalistic data processing has been made optional at national level by using the wording "whenever this is necessary" and "to reconcile" data protection with freedom of expression.

A clear reference to "journalistic purposes" needs to be upheld as it is the only way to maintain proper protection of journalism (for example, storing of personal data in editorial archives, protection of personal data of sources, digital transmission of personal data by publishing articles and maintaining online archives). The LIBE Committee compromise surprisingly ignores amendments which support a strong, clear and directly binding exemption for journalistic data processing previously adopted in Parliamentary opinion providing committees with broad support of MEPs from several parties. The LIBE amendment weakens rather than maintaining the current exemptions from data protection restrictions and from control by data protection authorities, and therefore poses a severe threat to press and media freedom in many parts of Europe.

Also in the Council, the **latest text discussed on Article 80 in the Data Protection Working Group (DAPIX) under the Irish Presidency poses a severe risk to press freedom and journalism**. The text only indicates that "Member States shall reconcile the right to the protection of personal data with the right to freedom of expression, including the processing of personal data for journalistic purposes". All references to the chapters to which

the exemption should apply have been removed. The Council's approach considerably weakens the original Commission's proposal and does not even consider or improve the existing legislation based on Article 9 of Directive 1995/46/EC.

The suggested wording in the **latest Council text removes any obligation for Member States to specifically foresee an exemption for data processing for journalistic purposes**, and therefore does not provide a guarantee that journalists would still be allowed to process personal data for fulfilling their democratic mission. It also gives a significant margin of interpretation on whether the exemption should even exist at national level and to what extent it should apply.

A directly binding exemption for journalistic data procession is urgently needed as all restrictions set out in the new regulation, including the control of editorial content by Data Protection Authorities, will be directly applicable. The compromise adopted in the LIBE Committee and the latest Council text instead leave the question of protection to national implementation and thereby open up the way for difficult discussions in Member States and opportunities for governments to curtail press and media freedom. In several countries it is even not clear whether the current level of protection for media freedom will be upheld.

Following this analysis, journalists and publishers in Europe, represented by ENPA, EMMA, EPC and EFJ would like to reiterate their **call towards governments and MEPs to support an appropriate approach for the respect of press freedom** and the need for journalists to process personal data without restrictions in order to achieve their democratic mission.

The **amendments to Article 80 adopted in the JURI and ITRE Committee opinions** and tabled (but sadly not adopted) by several MEPs from different political groups in LIBE Committee **provide, in our view, an appropriate response** for the exercise of professional journalism and the protection of press freedom.

Contacts:

Catherine STARKIE
Director Legal Affairs
EMMA
Catherine.starkie@magazinemedia.eu
+32 (0)2 536 06 02

Nikolas MOSCHAKIS
European Policy Adviser
EPC
nikolas.moschakis@epceurope.eu
+32 (0)2 231 12 99

Sophie SCRIVE
Deputy Executive Director
ENPA
sophie.scrive@enpa.be
+32 (0)2 551 01 90

Renate SCHROEDER
Director
EFJ
renate.schroeder@ifj.org
+32 (0) 2 235 2208