

## **PRESS RELEASE**

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### **European Data Protection Associations:**

#### **“New EU Law must strengthen Data Protection Officers!”**

Leading data protection associations around Europe welcome the intention of the European Commission to reduce the administrative burden on businesses in the ongoing work of designing a new comprehensive approach to the protection of personal data in the EU<sup>1</sup>. At the same time the associations share the Commission’s view that administrative simplification should not lead to a reduction in the level and effectiveness of personal data protection.

The German GDD, the French AFCDP, the Dutch NGFG and the Spanish APEP therefore call for the new EU legislation to strengthen the role of the Data Protection Officer (DPO) in all member States of the EU. The DPO is the organisation’s gatekeeper for compliance with data protection regulations and should play a key role in the Commission’s plans to improve compliance by introducing an “accountability principle”. In a digital society where more and more information is processed, duplicated and shared on unlimited media, among numerous players and across national borders, the DPO has become an essential actor for the privacy of consumers, employees and citizens.

The crucial and growing role of DPOs has been recognised globally in the “Madrid Resolution” on international privacy standards approved by data protection authorities from over 50 countries at the 31<sup>st</sup> International Conference of Data protection Commissioners in 2009. One of the most relevant chapters of the document refers to proactive measures and includes the recommendation to appoint Data Protection or Privacy Officers, with adequate qualifications, resources and powers for exercising their supervisory functions effectively.

GDD, AFCDP, NGFG and APEP share the view that in many cases it makes sense for organisations to appoint a DPO. *“After all, companies in Member States have to comply with data protection law anyway and somebody has to do the job”*, emphasizes Christoph Klug from the GDD. Sachiko Scheuing from the NGFG continues: *“DPOs of course know the privacy laws and regulations well. What makes them special is the fact that they also know their organisation very well. This unique combination of knowledge allows them to be effective.”* A survey carried out in the Netherlands by the Ministry of Justice found that organisations that have appointed a DPO have a higher degree of compliance awareness and knowledge.

Data protection associations have noticed a great increase in number of DPOs over the past few years. *“DPOs have proven their usefulness to both data controllers and individuals, and they will continue to fulfill an important need, as data protection regulations can be difficult to implement especially in our rapidly evolving world of technology”* says Pascale Gelly from the AFCDP.

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<sup>1</sup>COM(2010) 609 final

*“Organisations and individuals need to be able to rely on knowledgeable professionals: the DPOs. We are witnessing the emergence of a new profession”, Gelly continues.*

*Cecilia Alvarez from APEP adds: “DPOs are indispensable for the data controllers and the data processors to make effective the accountability and privacy by design principles within the EU. To create trust in a field where we must combine fundamental rights and business assets requires DPOs with a specific legal status, which is currently absent in certain EU jurisdictions, such as the Spanish one.”*

Given all the strong signals, the associations call on the European legislator to include appropriate provisions in the coming EU law to define and harmonise the role and functions of the DPO in Europe. Whether in a revised directive or in a potential regulation, more detailed provisions on the DPO`s role are needed. “There is a need for clear and specific wordings to be adopted not only on the DPO`s qualifications, tasks and duties, but also greater clarity concerning the DPO`s legal status”, concludes Klug from the GDD.

Armed with years of experience in corporate data protection, the associations know full well how important it is to involve DPOs in projects early on in the planning phase, as well as their having a direct reporting line to the head of the organisation. For instance, Germany`s experience over the last 30 years with mandatory DPOs has been highly positive. Some recent data protection “scandals” might have been avoided had the DPOs been more fully involved in the process of protecting personal data.

GDD, AFCDP, NGFG and APEP would be pleased to share their experience and expertise on issues such as missions, qualifications, certification, status, powers and resources of the DPO. They are currently discussing the formation of a European confederation, which would facilitate the dialogue with European Institutions and ensure that the point of view of DPOs is heard in the elaboration of data protection legislation.

## **ABOUT THE EUROPEAN DATA PROTECTION ASSOCIATIONS MENTIONED IN THIS PRESS RELEASE:**

### **GDD**

*The German Association for Data Protection and Data Security (Gesellschaft für Datenschutz und Datensicherung.V., GDD) was founded in 1977 and stands as a non-profit organisation for practicable and effective data protection. With more than 2400 – mostly company – members the GDD is Germany's leading privacy association. Besides offering various member services such as education, training and certification of Data Protection Officers, guides for practitioners and networking opportunities for data protection professionals all across Germany, the GDD also represents member positions at national and European level.*

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### **AFCDP**

AFCDP, Association Française des Correspondants à la Protection des Données, was created in 2004, following the modification of the Data Protection Act, which created the function of DPO («Correspondant à la protection des données à caractère personnel» also called CIL, «Correspondant Informatique & Libertés»). AFCDP is a wide forum which welcomes any person interested in the protection of personal data: CIL, data protection managers, lawyers, HR specialists, IT and IS experts, quality and compliance managers, professionals of the e-commerce and marketing sectors ... Over 900 individuals have joined so far this non profit association. AFCDP promotes discussion and information sharing on the protection of personal data in order to facilitate exchange among its members and to promote best practices. AFCDP maintains relationship with the French National Data Protection Commission (CNIL) and other authorities at French and European level involved in the protection of personal data.

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### **NGFG**

*Het Nederlands Genootschap van Functionarissen voor de gegevensbescherming (NGFG) is the Dutch association of Data Protection Officers, a position specified in article 62 of the Dutch Personal Data Protection Act, the Wet bescherming persoonsgegevens (WBP). WBP has a provision where businesses, branch organisations, governments and institutions are allowed to appoint an internal supervisor for protecting the rights of data subjects, i.e. Data Protection Officers. These individuals supervise the proper implementation, as well as ensuring compliance to applicable laws, regulations and professional codes of conducts, in the field of data protection within their organization. Thanks to the statutory tasks, responsibilities and authorities, Data Protection Officers have the ability to act independently within their organizations. The appointment of Data Protection Officers is how WBP*

implemented the ' Data Protection Officials' as referred to in article 18, second paragraph of the Directive 95/46/EC.

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**APEP**

The Spanish Association of Privacy Professionals (Asociación Profesional Española de la Privacidad) was created in 2009 by and for different profiles related to data protection and privacy professional interests, of both the private and the public sectors: in-house lawyers and external legal counsels, IT, IS and CTI experts as well as academics. In 2010, it launches the APEP certification for accountable professionals in order to put in value the DP professional roles and thus to contribute creating trust in the dynamic and emerging privacy market. The APEP has established stable links with several DPAs as well as with privacy-related associations and institutions at the domestic, EU and international levels.

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