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Mr Brian SIMPSON
Chairman
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ASP13 G 306
European Parliament
Brussels

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Please use edps@edps.europa.eu for all correspondence

Subject: Commission Delegated Regulation supplementing Directive 2010/40/EU of the European Parliament and of the Council with regard to the harmonised provision for an interoperable EU-wide eCall (C(2012)8509 final)

Dear Mr Simpson,

I am contacting you in relation to the adoption by the Commission on 26 November 2012 of a Delegated Regulation supplementing Directive 2010/40/EU of the European Parliament and of the Council with regard to the harmonised provision for an interoperable EU-wide eCall. The Delegated Regulation defines the specifications for the necessary upgrading of the Public Safety Answering Point (PSAP) infrastructure.

The EDPS welcomes that he was offered the opportunity to participate in Member States experts' meetings where the draft specifications for the PSAPs have been discussed, which has contributed to ensuring that appropriate data protection safeguards have been included into the text of the Delegated Regulation. The EDPS notes that all the recommendations he made in the course of the process have been taken into account.

In particular, the EDPS welcomes recitals 8, 9 and 10 of the Delegated Regulation, which make reference to compliance with applicable data protection laws and with the recommendations made by the Article 29 Working Party in the 'Working document on data protection and privacy implications in eCall initiative' of 26 September 2006. The EDPS also welcomes that recital 9 expressly specifies that '[v]ehicles equipped with eCall in-vehicle equipment shall not be traceable in their normal operational status' and that it takes into account the principle of data minimisation by requiring that only the minimum set of data be processed (also mentioned in Article 3(3)). This is in line with the recommendations of the Article 29 Working Party, that considered these two points to be particularly essential for the deployment of eCall.

The EDPS furthermore welcomes Article 6 regarding rules on privacy and data protection, which makes PSAPs and other relevant actors accountable to the national data protection authorities for their processing of personal data. It is also welcomed that Article 6(2) requires Member States to ensure that data are protected against misuse or loss (as this is required under Article 17 of Directive 95/46/EC), and to ensure that appropriate modalities for processing and storing the data are defined. The EDPS furthermore welcomes that the reporting obligations set forth upon the Member States in Article 8 also include reporting on the description of privacy and data protection protocols.

The EDPS takes note of Article 3(7), which specifies the conditions under which the PSAPs and appropriate emergency service(s) or service partner(s) may be granted access to the characteristics of the vehicle contained in national databases or other sources. Access to data contained in national databases is particularly sensitive from a data protection perspective, and the persons granted access to the database and the conditions for such access are usually strictly defined at national level. The EDPS therefore appreciates that Article 3(7) specifies that such access should be done only when appropriate and in accordance with national law and procedures, and that it limits the processing of data to only those that are necessary for dealing with an eCall. The EDPS also welcomes that Article 3(7) mentions the types of data that could be accessed for that purpose (such as the interpretation of the vehicle identification number, the vehicle type and model).

As this case showed, we believe that the involvement of the EDPS from an early stage of the drafting of delegated acts whose aim is to define the modalities of a data processing is particularly helpful, and we have therefore encouraged the Commission to continue its efforts in involving the EDPS in these matters.

In view of the legislative procedure applicable to delegated acts, we have sent this letter to the European Commission and to the Council as well.

Yours sincerely,

(signed)

Giovanni BUTTARELLI

Cc: Mr Juan Fernando LOPEZ AGUILAR, Chairman, Committee on Civil Liberties, Justice and Home Affairs (LIBE)
Ms Anne E. JENSEN, Rapporteur
Mr Walter GOETZ, Head of Unit, Committee on Transport and Tourism
Mr Antoine CAHEN, Head of Unit, Committee on Civil Liberties, Justice and Home Affairs (LIBE)