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ASSISTANT SUPERVISOR

Mr Michael CRAMER
Chair of the Committee Transport and
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European Parliament
ASP 04F155
B-1049 Brussels

Brussels, 17 June 2015
WW/IC/cpl/D(2015) 0992 C 2014-0015
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correspondence

Subject: Corrigendum to Commission Delegated Regulation of 18 December 2014 supplementing Directive 2010/40/EU of the European Parliament and of the Council with regard to the provision of EU-wide real-time traffic information services (C(2014)9672)

Dear Mr Cramer,

I am writing pursuant to Article 28(2) of Regulation (EC) No 45/2001 regarding the Corrigendum to Commission Delegated Regulation of 18 December 2014 supplementing Directive 2010/40/EU of the European Parliament and of the Council with regard to the provision of EU-wide real-time traffic information services (C(2014)9672).

The Delegated Regulation establishes the specifications necessary in order to ensure the accessibility, exchange, re-use and update of road and traffic data by road authorities, road operators and service providers for the provision of EU-wide real-time traffic information services. The EDPS was consulted by the European Commission on such text and issued formal comments on 21 January 2015¹.

We understand that the objective of the corrigendum is to correct in the Annex the inappropriate use of the term 'namely' concerning several categories of data, which does not reflect the intention of the Commission to propose an open list of data. Therefore, in the Annex the term 'namely' has been replaced by 'in particular' or 'such as'.

We would like to recall that the initial text of the Delegated Regulation as adopted in December 2014 was meeting our expectations in that respect, as underlined in our comments

¹ Published on EDPS website at:
https://secure.edps.europa.eu/EDPSWEB/webdav/site/mySite/shared/Documents/Consultation/Comments/2015/15-01-21_real_time_traffic_information_services_EN.pdf

to the co-legislators in January 2015. In our formal comments, we particularly welcomed the use of the term “namely” as setting forth an exhaustive list of data, which ensured compliance with the principle of data minimisation².

In our view, the change of words introduced in the corrigendum substantially changes the meaning of the relevant provisions, which should now be interpreted as setting forth an open list of data. This has an impact on the processing of personal data as new data can now be added by Member States to the minimum lists set forth in the Delegated Regulation.

We take note of this change, which does not correspond to our earlier comments. We underline that in any event any new data to be added to the lists in Annex must comply with all the requirements set forth in the Delegated Act, in particular those relating to data protection and security, including the respect of the principle of data minimisation as expressly stated in recital 9. Such principle requires that, pursuant to Article 6(1)(c) of Directive 95/46/EC, data should be adequate, relevant and not excessive in relation to the purposes for which they are collected and/or further processed.

The above comment does not affect the validity of the other comments of the EDPS concerning the Delegated Regulation.

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

Yours sincerely,

(signed)

Wojciech Rafał WIEWIÓROWSKI

Cc: Mr Martin SCHULZ, President of the European Parliament
Mr Walter GOETZ, Head of Unit, Committee on Transport and Tourism
Mr Claude MORAES, Chairman, Committee on Civil Liberties, Justice and Home Affairs (LIBE)
Mr Antoine CAHEN, Head of Unit, Committee on Civil Liberties, Justice and Home Affairs (LIBE)

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² "We welcome that the principle of data minimisation has been taken into account in the text of the Delegated Regulation. Articles 8 to 10 and the Annex to the Delegated Regulation set forth *an exhaustive list* of the exact data to be provided and/or updated, thus ensuring that only the data necessary for the purpose of providing the real-time traffic information services are processed. This is in line with Article 6(1)(c) of Directive 95/46/EC, which requires that data should be adequate, relevant and not excessive in relation to the purposes for which they are collected and/or further processed."