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Addendum

**CONSULTATIVE COMMITTEE OF THE CONVENTION
FOR THE PROTECTION OF INDIVIDUALS WITH REGARD TO AUTOMATIC PROCESSING
OF PERSONAL DATA
(T-PD)**

**LE COMITÉ CONSULTATIF DE LA CONVENTION POUR LA PROTECTION DES
PERSONNES A L'ÉGARD DU TRAITEMENT AUTOMATISÉ
DES DONNÉES A CARACTÈRE PERSONNEL
(T-PD)**

Information on the recent developments at national level in the data protection field

Information sur les développements récents intervenus dans le domaine
de la protection des données au niveau national

TABLE OF CONTENTS / TABLE DES MATIERES

MALTA 3

MALTA

Major Developments since the T-PD plenary meeting held in June 2012

During the period under review, a legislative intervention was made to the Data Protection Act (Chapter 440 of the Laws of Malta) whereby the need to introduce two frameworks, one for administrative fines that may be imposed by the Information and Data Protection Commissioner and another for court penalties, was addressed. This intervention helped to provide for a more efficient and proportionate system of enforcement and add a further degree of legal certainty in the application of the said Act. A clear distinction between administrative fines and court penalties was introduced by means of a separate definition for each of the two types of sanctions and by establishing a procedure for their imposition. Furthermore schedules to the Act were introduced in order to assist, amongst others, in identifying which of the offences are liable to administrative fines and which are liable to court penalties. In order to have a demonstratively fair, rationalised and standardised system in the imposition of both sanctions, parameters were established with regards to the minimum and maximum amount of fines and penalties that may be imposed for each respective breach

A legal notice was drafted establishing the 1st January 2013 as the date when all the provisions of Legal Notice 239 of 2011 were to come into force. This Legal Notice transposes the amended ePrivacy Directive 2009/136/EC of the European Parliament and Council of 25th November 2009 amending, *inter alia*, Directive 2002/58/EC concerning the processing of personal data and the protection of privacy in the electronic communications sector. During the period under review this Office initiated the process of developing ad-hoc guidelines in order to provide data controllers with the necessary direction concerning the implementation of the cookie consent requirement.

On the 1st September 2012 the Freedom of Information Act (Chapter 496 of the Laws of Malta) was brought fully into force and vested the Information and Data Protection Commissioner with the additional responsibilities, *inter alia*, to receive and decide on applications for a review of decisions by public authorities, serve enforcement notices on public authorities to comply with his decisions and promote the Act's observance. During the period under review, the Information and Data Protection Commissioner received three complaints in total, two were against the Malta Police Force and one was against the Permanent Secretariat of the Ministry for Home Affairs.

This Office sustained its efforts to meet the various sectors with the objective of discussing data protection issues and providing the relevant guidance. In this regard, meetings were held with the two main credit referencing agencies on the island and after a series of discussions, guidelines were formulated and adopted to promote good practice in the processing of individuals' personal data by credit institutions.

During 2012, six data subjects felt aggrieved by the decision in their regard of the Information and Data Protection Commissioner and lodged an appeal before the Information and Data Protection Appeals Tribunal. Out of the six appeals, one was withdrawn by the appellant following the first sitting of the Tribunal, two were still ongoing by year end and insofar as the remaining three are concerned the Chairman of the mentioned Tribunal found in favour of the Information and Data Protection Commissioner and dismissed the appeals. These decisions were considered to be final and conclusive given that no party lodged an appeal before the Court of Appeal within the thirty day window established by law.

In July, this Office was subjected to a second peer review by the Schengen Evaluation Data Protection Committee, following that carried out in 2006. Experts called at the Office to evaluate its internal operations and procedures, in particular the exercise of the Information and Data Protection Commissioner's supervisory role. Presentations by the latter, technical staff and the data protection officer within the Ministry of Foreign Affairs were delivered. Following this, the evaluation's outcome was presented to the Schengen Working Party where it was concluded that the Office of the Information and Data Protection Commissioner is adequately geared to exercise the role of data protection regulator on all data controllers concerned including the Police. A minimal number of recommendations were also made and this Office took immediate action to address such points.

On the 28th January, this Office joined other Data Protection authorities to celebrate Data Protection Day. In this regard the informative material and stationery items were distributed to students in all schools in Malta. It has always been the Office's firm belief that in order to achieve an effective data protection culture change there needs to be continuous investment in educating and raising awareness among the young generation.

Other awareness raising activities which were carried out by this Office during the year under review included the delivery of presentations to various data controllers in different sectors of the Maltese society, participation in local TV and radio programmes with phone-ins and the regular updating of this Office's portal (www.idpc.gov.mt) with developments occurring in the field of data protection. This Office firmly believes that getting the message across via the media, represents a potential and effective way to increase awareness with the public at large.