

## DECISION

### *on the adequate protection of personal data provided in Switzerland*

In accordance with the provisions of Article 3 paragraphs (5) and (6) of Law no. 102/2005 on the setting up, organization and functioning of the National Supervisory Authority for Personal Data Processing and those of Article 6 paragraph (2) letter b) of the Regulation on the organization and functioning of the National Supervisory Authority for Personal Data Processing,

in the enforcement of the provisions of Article 29 paragraph (1) and (2) of Law no. 677/2001 on the protection of individuals with regard to the processing of personal data and the free movement of such data, modified and amended,

in the enforcement of the provisions of European Directive 95/46/EC of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data and the free movement of such data,

in order to transpose the provision of the European Commission Decision no. 2000/518/EC, adopted on the basis of the European Directive 95/46/EC of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data and the free movement of such data, concerning the adequate level of protection for the personal data in Switzerland,

in view of Switzerland Federal Constitution of 2000 which guarantees to every person the right to have his privacy respected and whose provisions are binding both on the Federation and on each canton,

having regard to Federal Law of 19<sup>th</sup> of June 1992 on data protection in Switzerland, which entered into force on 1<sup>st</sup> of July 1993,

in view of the fact that Switzerland ratified the Council of Europe Convention of Individuals with regard to Automatic Processing of Personal Data of 28<sup>th</sup> of January 1982 (Convention no. 108),

in view of Approval Report no. 5947 of 7<sup>th</sup> of November 2006 of Authorizations Office within the National Supervisory Authority for Personal Data Processing with regard to the recognition of an adequate level of protection for the personal data protection in Switzerland,

the President of the National Supervisory Authority for Personal Data Processing issues the following

## **DECISION:**

### **Art. 1**

The personal data transfer to Switzerland may take place only by observing the provisions of Article 29 paragraphs (1) and (2) of Law no. 677/2001 on the protection of individuals with regard to the processing of personal data and the free movement of such data, modified and amended, due to the fact that this state ensure an adequate level of protection for personal data.

### **Art. 2**

(1) The National Supervisory Authority for Personal Data Processing may dispose the suspension or the cession of personal data transfer to Switzerland in order to protect the fundamental rights of the persons subject to personal data processing in one of the following cases:

- (a) a competent Swiss authority has determined that the recipient is in breach of the applicable standards of protection; or
- (b) there is a substantial likelihood that the standards of protection are being infringed; there are reasonable grounds for believing that the competent Swiss authority is not taking adequate steps to settle the case at issue; the continuing transfer would create an imminent risk of grave harm to data subjects and the party responsible for processing established in Switzerland with be noticed, in advanced, in order to have the opportunity to respond.

(2) The suspension shall cease as soon as the National Supervisory Authority for Personal Data Processing is notified with regard to the ceasing of the motifs which determined adopting these measures.

(3) The competent authorities in Romania shall inform the Commission without delay when measures are adopted on the basis of paragraphs (1) and (2).

(4) The competent authorities in Romania and the Commission shall inform each other of cases provided in paragraph (1) where the action of bodies responsible for ensuring compliance with the standards of protection in Switzerland fails to secure such compliance.

**Art. 3**

This decision transposes the European Commission Decision no. 2000/518/EC, adopted on the basis of the European Directive 95/46/EC of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data and the free movement of such data, concerning the adequate level of protection for the personal data in Switzerland, decision which was published in the Official Journal of the European Communities no. L 215/1 of 25<sup>th</sup> of August 2000.

**Art. 4**

This Decision will be published in the Official Journal of Romania, Part I.

**PRESIDENT,**

**Georgeta BASARABESCU**

**Bucharest, 13<sup>th</sup> of December 2006**

**No. 174**