

DECISION:

Regarding the recognition of an adequate personal data protection level in Jersey

By virtue of art. 3 paragraph (5) and (6) from the Law no. 102/2005 with regard to setting, organization and functioning of the National Supervisory Authority for Personal Data Processing, with the subsequent amendments and completions and of the art.6 paragraph (2) letter b) from Organization and functioning Regulation of the National Supervisory Authority for Personal Data Processing.

- issued in applying the provisions of the art. 29 paragraph (1) and (4) (2) from the Law no. 677/2001 with regard to the personal data processing and on the free movement of such data, with the subsequent amendments and completions.

- in order to establish the implementation of the European Parliament and of the European Council Directive 95/46 with regard to the personal data processing and on the free movement of such data;

- for transposing the European Commission Decision no. 2008/393/EC, adopted based on the European Parliament and by the European Union Council Decision 94/46/EC with regard to the processing of personal data and on the free movement of such data, referring to the establishment of an adequate protection level of such personal data in *Jersey*.

- taking into consideration that *Jersey* is considered to be a third state according to the Directive 95/46/EC,

- taking in consideration the Law from 1987 with regard to the protection of personal data in Jersey, effective starting with 11th of November 1987 and of other complementary laws - The data protection Law from 2005 (Amendment) and the coming he Law from 2005 (Ammend5 (Amendment) and of the coming into force of the data protection law of 2005.

- taking into consideration that the ratification by Great Britain of the Convention from 28th of January 1981 for persons' protection against automatic personal data processing (European Council Convention no. 108) has also been extended to Jersey starting with 1987,

- seeing the Approval Paper no. 13 from November 18th, 2008 of the Authorization Bureau within the National Supervisory Authority for Personal Data Processing referred to the proposition of issuing a decision regarding the recognition of an adequate personal data processing level in *Jersey*.

The president of the National Supervisory Authority for Personal Data Processing presents the present decision:

Art. 1. The personal data transfer to *Jersey* can take place with respecting the provisions of the art. 29 paragraph (1) and paragraph (2) from the Law no. 677/2001 with regard to the personal data processing and on the free movement of such data, with the subsequent amendments and completions, because in this state an adequate protection level of the personal data is ensured.

Art. 2 – (1) National Supervisory Authority for Personal Data Processing can dispose the interdiction or suspension of the personal data transfer to *Jersey*, in order to ensure the persons' fundamental rights with regard to personal data processing, in one of the following cases:

(a) a competent authority from *Jersey* has established that the personal data receiver has broken the applicable protection norms;

(b) exists the possibility of not respecting the personal data protection norms, in the conditions in which the Jersey competent authorities do not take adequate measures for protecting these data, making so that the transfer presents the risk of serious prejudice of the persons in question, and the receiver established in *Jersey* has been announced previously of adopting this measure in a reasonable term for providing an answer.

(2) Interdiction or suspension disposed according to the paragraph (1) will disappear, immediately after the National Supervisory Authority for Personal Data Processing has been announced that the reasons for taking these measures had stopped.

(3) The Romanian competent authorities will immediately inform the European Commission of the adopted measures according to the paragraph (1) and (2).

(4) The Romanian competent authorities and the European Commission will inform each other regarding the cases provided in the paragraph (1) when through the

adopted measures by the *Jersey* responsible authorities, the personal data protection norms are not respected.

Art. 3 – The present decision transposes the European Commission Decision no. 2008/393/EC, adopted based on the European Parliament and by the European Union Council Decision 94/46/EC with regard to the processing of personal data and on the free movement of such data, referring to the establishment of an adequate protection level of such personal data in *Jersey*, published in the European Commission Official Journal no. L 138/21 from May 28, 2008.

Art. 4 - This Decision shall be published in the Romanian Official Gazette, Part I

**The President of the National Supervisory Authority for
Processing of Personal Data**

Georgeta Basarabescu

No. 90 from November 26, 2008