ARTICLE 29 DATA PROTECTION WORKING PARTY

Work programme 2012 – 2013

Adopted on 1 February 2012

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Tasks

The Working Party was set up under Article 29 of Directive 95/46/EC and its tasks are to (Art. 30.1):
(a) examine any question covering the application of the national measures adopted under this Directive in order to contribute to the uniform application of such measures;
(b) give the Commission an opinion on the level of protection in the Community and in third countries;
(c) advise the Commission on any proposed amendment of this Directive, on any additional or specific measures to safeguard the rights and freedoms of natural persons with regard to the processing of personal data and on any other proposed Community measures affecting such rights and freedoms; and
(d) give an opinion on codes of conduct drawn up at Community level.

These tasks also apply with regard to the electronic communications sector (Art. 15.3 of Directive 2002/58/EC).

Activities for 2012-2013

The Working Party's goal for the 2012-2013 period is not only to ensure a coherent and correct application of the current legal framework but also to continue to prepare for the future legal framework which has been proposed by the European Commission on 25 January 2012. The revised legal framework will have consequences both for the rules and regulations regarding data protection and for the functioning of the Working Party as such. Furthermore, continuous innovation and technological development, especially in the online environment, are challenges that need to be addressed.

The Working Party aims to clarify and strengthen the roles of all actors in the field of data protection: data subjects, data controllers and Data Protection Authorities. The Working Party will also address its own effectiveness and further improve its working methods, in close cooperation with its Secretariat. The Working Party will furthermore increase its interaction with international data protection authorities and other institutions and organisations, both within the European Union and outside, including the Council of Europe and the United States Federal Trade Commission.

In view of the challenges above, the Working Party intends to concentrate on six main strategic themes and a few topical issues which it finds most relevant to data protection:
I)   Implementing the existing Data Protection Directive and preparing for a future legal framework
II)   Making the Article 29 Working Party and Data Protection Authorities more effective
III)   Responding to technological challenges
IV)   Ensuring a coherent and effective approach with regard to data protection in the area of Freedom, Security and Justice
V)   Addressing globalisation and international transfers
VI)   Topical issues

Apart from this, the Working Party remains available for requests for opinions received from the Commission, the Council and the European Parliament and any other unforeseen issues. Data protection issues can be interconnected at different levels and will therefore be addressed in ways the Working Party finds most appropriate. The Working Party will regularly monitor the implementation of this work programme and reserves the right to further specify or update it, where necessary.

I - Ensuring the correct implementation of the current legal framework and preparing for the future

- Interpreting key provisions
  - Purpose limitation (from "purpose specification" to "compatible use" and possible exceptions);
  - Other grounds for processing, focussing on "legitimate interests";
- Examining and advising on key notions of the proposal for a new legal framework
- Monitoring the implementation of the E-Privacy Directive
  - Breach notification (art. 4.5) (p.e. consultation and severity assessment)
- Ensuring consistency with other (international) data protection frameworks (OECD, CoE);

II –Making DPAs and the WP29 more effective

- Securing an independent and effective WP29;
- Enhancing enforcement (inventory of powers to enhance cooperation between DPA, developing and improving methodology for investigations, harmonising powers of Data Protection Authorities and promoting international cooperation between privacy authorities);

III - Technological challenges

- Cloud computing;
- Facial recognition;
- Use of anonymization techniques;
- Tracking through Device Fingerprinting/Device ID;
- Guidelines on Smartphone Apps

IV - Ensuring a coherent and effective approach with regard to data protection in the area of Freedom, Security and Justice

- Evaluation implementation Framework Decision 2008/977/JHA
- Future of supervision in the former third pillar

- Negotiations on an EU-US general data protection agreement for law enforcement related data
- EU Terrorist Finance Tracking System

- Exchange of PNR data with third countries
- Proposals on an EU PNR System
- Smart border concept
  - Entry/exit system
  - Registered Traveller Programme
- European Border Surveillance System – EUROSUR
- (legislative) Proposals on the use of bodyscanners
- European Information Exchange Model – EIXM
- Issues related to cooperation in the judicial sector

V - Adressing globalisation and international transfers

- Standardisation efforts (ISO, CEN);
- International transfers
    - Adequacy of third countries;
    - BCRs;
        i. Streamlining current procedures (incl. mutual recognition)
        ii. Developping a BCR for processors
    - Safe Harbor
    - Pre trial discoveries

VI - Topical issues:

- E-Government;
    - IMI
- Financial matters;
- Biometrics;
- WADA;
- Healh Data