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WP 146

**Work Programme 2008-2009
Article 29 Working Party**

18 February 2008

This Working Party was set up under Article 29 of Directive 95/46/EC. It is an independent European advisory body on data protection and privacy. Its tasks are described in Article 30 of Directive 95/46/EC and Article 15 of Directive 2002/58/EC.

The secretariat is provided by Directorate C (Civil Justice, Rights and Citizenship) of the European Commission, Directorate General Justice, Freedom and Security, B-1049 Brussels, Belgium, Office No LX-46 06/80.

Website: http://ec.europa.eu/justice_home/fsj/privacy/index_en.htm

Tasks of Working Party

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 2008-2009

For the period 2008-2009, without prejudice to requests for opinions received from the Commission, the Working Party intends to concentrate on four main strategic themes and a few topical issues which it finds most relevant and urgent for the development of data protection.

The Working Party has to face three major challenges for the years 2008-2009, in particular:

- i) How to improve the impact of Directive 95/46/EC and the role of the Working Party.
- ii) The impact of the new technologies.
- iii) The global environment (international transfer of data, global privacy and jurisdiction).

The relevant issues are therefore:

- I Better implementation of Directive 95/46/EC
- II Ensuring data protection in international transfers
- III Ensuring data protection in relation to new technologies
- IV Making the Article 29 Working Party more effective
- V Topical issues

These issues can be interconnected at different levels and will therefore be addressed in ways the Working Party finds most appropriate. They are developed in more detail below. Subjects with a higher priority for the Working Party have been marked with an asterisk (*).

The Working Party will regularly monitor the implementation of this work programme and reserves the right to further specify or update it, where necessary. The Working Party also takes into consideration that the work programme will be implemented in the framework of approximately ten plenary meetings and forty subgroup meetings during the period 2008-2009.

I. Better implementation of Directive 95/46/EC

1. Interpretation of key provisions of Directive 95/46/EC – to contribute to the draft Interpretative Communication¹
 - a. “Controller” and “processor” (*) – article 2 of Directive 95/46/EC
 - b. “Applicable law” (*) – article 4 of Directive 95/46/EC
 - c. “Purpose limitation” (*) – article 6 of Directive 95/46/EC
 - d. “Grounds for processing”, especially “unambiguous consent” and “legitimate interests” – article 7 of Directive 95/46/EC
2. Instruments for effective implementation (see also IV)
 - a. Enforcement (*)
 - b. National experiences - Data Protection Officers (*)
3. New challenges
 - a. Impact of Reform Treaty (*)
 - b. Impact of technological developments (see also III) especially technological tools to ensure protection.

II. Ensuring data protection in international transfers

1. Special instruments
 - a. Binding Corporate Rules (BCR) (*)
 - b. Safe Harbor
2. Global privacy and jurisdiction
 - a. Promoting adequacy (*)
 - b. International standards (to engage more with the various standards bodies - to actively work with those developing standards to encourage privacy to be built in from the start)
 - c. Applicable law (see also 1.b)

III. Ensuring data protection in relation to new technologies

1. Internet related questions
 - a. Search engines (*)
 - b. On-line social networks (especially for children and teenagers) (*)
 - c. Behavioural profiling, data mining (on-line or off-line) (*)
 - d. Digital broadcasting
 - e. ICANN and WHOIS
2. Review of regulatory framework for e-communications (*)
3. Identity management
4. e-Government

¹ Either in ‘stand alone’ documents, or to be taken into account in topical documents.

5. Biometrics (both public and private use – focus on a specific or new application of biometrics)*
6. Ubiquitous computing
 - a. Radio Frequency Identification (RFID) (*)
 - b. Ambient intelligence
 - c. Electronic toll systems (*)

IV. Making the Article 29 Working Party more effective

1. Role of Art. 29 WP (guiding principles or standards for producing opinions and clarifying the process – aim, focus and audience) (*)
2. Improving effectiveness:
 - a. Evaluation of WP documents as appropriate instruments to achieve harmonisation of national practice (WP 29 level) (*)
 - b. Exchange of best practices in supervision, including recent experiences with the establishment of Data Protection Officers (national level) (*).
3. Enforcement
Identify areas, sectors or topics that are causing most problems (according to information from DPAs) and determine appropriate common actions (*)

V. Topical issues

1. Re-use of data for security purposes, in particular Passenger Name Record (PNR) Europe (*)
2. Medical data (e-health patient records)
3. Archives and privacy
4. Children and privacy (see also III.1. b) (*)
5. Establishment of a framework for privacy audits to be used by the public and the private sectors (*a tool to assess themselves whether the data held by them is still necessary, proportionate, accurate, up to date etc.*)
6. Financial matters
 - a) SWIFT/SEPA
 - b) Possibly VISA/Mastercard
7. Direct Marketing
8. Pre-trial discovery*

Done at Brussels, 18 February 2008

For the Working Party
The Chairman
Peter SCHAAR