

Brussels, 24 March 2014

### **ARTICLE 29 DATA PROTECTION WORKING PARTY**

**At its 94<sup>th</sup> plenary meeting, held on 26 and 27 February 2014, the Article 29 Working Party elected Mrs. Isabelle Falque-Pierrotin, President of the French Data Protection Authority, as its new Chair.**

Mrs. Falque-Pierrotin succeeds Jacob Kohnstamm, Chairman of the Dutch Data Protection Authority, who chaired the Article 29 Working Party for four years.

Wojciech Wiewiorowski of the Polish Data Protection Authority and Gerard Lommel of the Luxembourg Data Protection Authority have been elected as Vice-Chairmen. Both terms of Chair and Vice-Chair are for two years.

#### **Opinion on necessity**

**During its plenary meeting the Working Party also adopted an opinion on necessity in relation to the area of freedom, security and justice ([http://ec.europa.eu/justice/data-protection/article-29/documentation/opinion-recommendation/files/2014/wp211\\_en.pdf](http://ec.europa.eu/justice/data-protection/article-29/documentation/opinion-recommendation/files/2014/wp211_en.pdf)). The opinion aims to clarify the concepts of necessity and proportionality and their application to proposed or existing measures within the law enforcement context, both at local, national and European levels.**

Many border control and law enforcement measures, either existing or proposed, intrude on an individual's private life and entail the processing of personal data. Considering their potential impact on the fundamental right to data protection, the Working Party in the opinion stresses the importance of taking into account the concepts of necessity and proportionality in all measures applicable in the area of freedom, security and justice.

In order to ensure that any measure proposed in the future will indeed be necessary and proportionate, instead of simply having "added value" or being "useful", the opinion provides guidance to legislators and authorities operating in the area of freedom, security and justice on what elements must be taken into account when thinking about proposing new or reviewing existing measures.

Drawing from case law and the experience from the members of the Working Party, the most important recommendation is that a measure must have a proper legal basis. Interfering with the fundamental right to respect for private and family life, as provided by the European Convention on Human Rights, can only be deemed necessary when it is in accordance with the law, in pursuit of a legitimate aim as set out in the same article which provides for the respect for private life and is necessary in a democratic society.

#### **Background information**

The Article 29 Working Party on the Protection of Individuals with regard to the Processing of Personal Data is an independent advisory body on data protection and privacy, set up under Article 29 of the Data Protection Directive 95/46/EC. It is composed of representatives from the national data protection authorities of the EU Member States, the European Data Protection Supervisor and the

European Commission. Its tasks are described in Article 30 of Directive 95/46/EC and Article 15 of Directive 2002/58/EC. The Article 29 Working Party is competent to examine any question covering the application of the data protection directives in order to contribute to the uniform application of the directives. It carries out this task by issuing recommendations, opinions and working documents.

[http://ec.europa.eu/justice/data-protection/index\\_en.htm](http://ec.europa.eu/justice/data-protection/index_en.htm)