

Press Release
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Issued by the Article 29 Data Protection Working Party

The European data protection authorities, assembled in the Article 29 Working Party (WP29) remind cloud computing providers of their obligations under Directive 95/46/EC upon their partial assessment of Microsoft's data processing agreement.

One of the WP29's missions is to contribute to the uniform application of EU data protection rules. To this aim, during the last plenary meeting, the data protection authorities assembled in the WP29 supported the implementation of a generic approach, including as to the definition of an appropriate legal framework for the provision of cloud computing services.

In the framework of the WP 29, the EU data protection authorities assessed a number of contractual documents submitted by Microsoft to several EU data protection authorities. These documents provide a legal framework for the international data transfers taking place in the context of the cloud services which Microsoft offers in different Member States. The aim of the review was to evaluate whether these documents strictly meet the requirements on international data transfers contained in the Standard Contractual Clauses 2010/87/EU (the so-called "controller-to-processor" clauses).

The EU data protection authorities, assembled in the WP29, take the view that the documents meet the EU requirements laid out in these clauses.

The positive outcome of this limited analysis does not entail that the WP29 regards Microsoft's contractual arrangements as complying overall with all EU data protection requirements, nor should it be construed as an endorsement that, in practice, Microsoft complies with EU data protection rules. It merely acknowledges that Microsoft has made sufficient contractual commitments to provide a legal framework to its international data flows, in accordance with Article 26 of Directive 95/46/EC.

Furthermore, the European data protection authorities did not assess the Appendices to Microsoft's contractual documents which specifically describe the transfers covered by the agreement (e.g., categories of data, security and confidentiality measures implemented by the data importer, etc.), and the content of which may vary from a client to another. Microsoft and its clients will need to assess on a case-by-case basis how these Annexes can suit their specific data protection needs and legal requirements. These Annexes may have to be analysed separately by the data protection authorities.

Beyond this specific case, the European data protection authorities remind all cloud computing providers offering services to clients subject to EU laws of their duty to assess the compliance of their contractual arrangements with EU data protection requirements, taking into due consideration WP29 Opinion 05/2012 on cloud computing ([WP196](#)).

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/article-29/index_en.htm