

## ARTICLE 29 Data Protection Working Party



Brussels, 04 April 2012  
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Vice-President Viviane Reding  
Commissioner for Justice,  
Fundamental Rights and  
Citizenship  
European Commission  
B – 1049 Brussels

Dear Ms Reding,

As you know the Article 29 Working Party adopted its opinion on the Commission's Data protection reform proposals very recently at its plenary meeting on 23 March 2012.

The Working Party has carefully studied both proposals and with the opinion provides its general reaction to them. The opinion highlights several areas of concern and where appropriate makes suggestions for improvement. There is one area of concern that I would like to draw your attention to specifically, the budget and resource implications of the proposals.

As mentioned in the opinion, the Working Party is pleased that the proposals recognise the important role DPAs can play in ensuring compliance by introducing enhanced duties for both DPAs and the European Data Protection Board (EDPB).

The Working Party does however have serious doubts as to whether the significant budgetary implications of these enhanced duties are sufficiently recognised. To empower DPAs and the EDPB to effectively carry out their duties, including mutual assistance and cooperation within the consistency mechanism, Member States must be committed to provide the necessary financial, human and technical resources. Without these there is a risk that DPAs will not be able to cope with the demands on them and will act as an impediment to rather than an enabler of the innovation and growth that you are seeking to promote.

In this respect the Working Party strongly suggests an independent in-depth assessment of the increased costs for DPAs and the EDPS (as secretariat for the EDPB) based on the current proposals, be carried out. The Working Party would advise the Commission to ensure such an independent study be carried out in a way that identifies the existing and new or modified duties and the likely demands and costs associated with them for a sample of at least one small, one medium sized and one large DPA, as well as for the EDPS.

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 (Fundamental Rights and Union Citizenship) of the European Commission, Directorate General Justice, B-1049 Brussels, Belgium, Office No MO-59 02/013.

Website: [http://ec.europa.eu/justice/policies/privacy/index\\_en.htm](http://ec.europa.eu/justice/policies/privacy/index_en.htm)

Following the results of such an assessment, what constitutes ‘adequate human, technical and financial resources, premises and infrastructure’ for DPAs as mentioned in Article 47(5) should be made clear. If the cost of providing these exceeds the financial commitment that Member States and the Commission are prepared to make, then priorities should be set, with those duties that do not provide the best ‘value for money’ in terms of privacy protection being scaled back.

Yours sincerely,

On behalf of the Article 29 Working Party,

Jacob Kohnstamm  
Chairman

Annex: Opinion 01/2012 on the data protection reform proposals (WP 191)

CC: Ms. Françoise LE BAIL, Director General, DG Justice