



ARTICLE 29 Data Protection Working Party

Brussels, 5 March 2013

World Anti-Doping Agency
Stock Exchange Victoria (Suite 1700)
Montreal (Québec) H4Z 1B7
Canada

Dear Madam or Sir,

Since the Article 29 Working Party adopted WP156 and WP 162 in 2008 and 2009 on the Standard for the Protection of Privacy and Personal Information, on certain relevant provisions of the World Anti-Doping Code and the Standard on Testing, the Art. 29 WP has attentively followed the activities of the World Anti-Doping Agency, and particularly the different phases in the revision process of both the World Anti-Doping Code and the International Standards completing the Code.

With this letter, in the context of the third and final stage of the public consultation organised by WADA, the Art. 29 WP would like to express a number of observations and concerns with regard to these documents, particularly the latest modifications to them from WADA. It mainly relates to aspects already highlighted in earlier opinions: the issue of legitimacy based on consent, the proportionality of location data, retention periods and (the terms for) the automatic publication of sanctions, as well as an adequate framework for international data transfers.

The Art. 29 WP will not repeat all the objections it mentioned in its opinions, but if they have not been taken into account in the revision process, they will be considered as having been repeated with this letter.

The Art. 29 WP makes these observations in light of the level of protection offered by Directive 95/46/EC, currently in force, which has been transposed into the laws of the EU's 27 Member States. Where appropriate, reference is also made to the proposal for a regulation published by the European Commission on 25 January 2012 and to the Art. 29 WP's position on this text.

The Working Party would furthermore like to stress that data protection is a fundamental right in the European Union. Data protection rules exist to ensure all data processing are carried out properly. However, the Art. 29 WP feels that WADA's proposals do not strike the necessary and proportionate balance between WADA's aims and the respect for fundamental rights.

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

The Art. 29 WP would appreciate it if WADA would take into account the Working Party's remarks, which are aimed at safeguarding a level of data protection equivalent to that of the EU, but also, more fundamentally, at promoting the highest possible level of data protection in the interest of all individuals concerned.

The Art. 29 WP would also like to thank the four WADA representatives for the afternoon they spent responding to and dialoguing with the members of the *ad hoc* WADA subgroup. Their clarifications have definitely contributed to a better understanding and more complete information.

The Art. 29 WP remains at WADA's disposal for any further information or explanation regarding its observations.

Yours sincerely,

Jacob Kohnstamm
Chairman