Press Release
Communiqué de presse
Mitteilung für die Presse

ARTICLE 29 WORKING PARTY – FEBRUARY 2018 PLENARY MEETING

The Article 29 Working Party (WP29) at its February plenary meeting which took place on the 6th and 7th February, examined certain critical matters with regards to the implementation of the General Data Protection Regulation (GDPR), adopted seven key documents for the preparation of its application on the 25th May 2018 and elected its new Chair.

1. IMPLEMENTATION OF THE GDPR AND ADOPTED GUIDELINES[1]

The WP29 adopted the final version of its guidelines on data breach notification and profiling as well as the Binding Corporate Rules (BCRs) referentials for data controllers and data processors. Moreover, the plenary adopted the final version of the adequacy referential. All these documents were discussed after having gone through a public consultation lasting six weeks.

The WP29 also adopted its guidelines on derogations for transfers and accreditation of certification bodies, which have been published on the website of WP29 and remain open for public consultation for a period of six weeks before their final adoption (guidelines on derogations for transfers – open until 26 March, guidelines on accreditation of certification bodies – open until 30 March 2018)

With the adoption of these guidelines, the WP29 successfully fulfilled the vast majority of its objectives set out in the 2016 and 2017 GDPR Action Plans with the exception of the guidelines on certification for which the discussions are still ongoing.

Moreover, the WP29 worked on the organisation and structure of the European Data Protection Board (EDPB) to be ready for May 2018 and adopted tools for the cooperation between DPAs on data breach notifications.

2. ADOPTION OF LETTERS ON TRANSVERSAL ISSUES

- CISPE Code of Conduct

The plenary adopted a letter addressed to the Association of Cloud Infrastructure Services Providers in Europe (CISPE) giving substantial feedback on the provisions of CISPE's code of conduct.

- IATA

A letter addressed to IATA (International Air Transport Association) and ECTAA (European Travel Agents' and Tour Operators' Associations) was adopted by the WP29. Through this letter, the WP29 wishes to obtain more information on the "New Distribution Capability" project and on the "One Order Resolution" published by IATA. The letter has been published on the website of WP29.

- FATCA

The WP29 adopted a letter addressed to the association of "accidental Americans" with regards to the scope of application of the FATCA legislation and relevant data protection issues. The letter has been published on the website of WP29.

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[1] Attached to this press release you shall find the complete list and status of the GDPR WP29 guidelines.

3. MANDATES AND ONGOING WORK

Various WP29 subgroups received a number of mandates to complete or initiate projects on the interpretation of further aspects of the GDPR and on other privacy related topics.

In particular, the WP29 gave a mandate to develop an opinion on the proposed EU regulations on interoperability between existing and future European information systems in the field of border control, migration, international protection as well as police and judicial cooperation.

The WP29 is also continuing its work on the development of a position on the application of Article 3 of the GDPR, relating to its territorial scope.

Fully aware of the specific needs of SMEs, the WP29 will provide guidance on when the obligation applies to maintain a record of processing activities according to the GDPR.

The WP29 will also work on the update of the existing guidelines and criteria on the right to be forgotten.

Regarding the financial matters issues, the subgroup continues its active dialogue with the European Securities Markets Authority (ESMA) regarding the establishment of a framework for the exchange of information between European and non-European financial supervisory authorities.

In relation to enforcement, the WP29 at the last plenary in November 2017 established a taskforce on the UBER data breach case. This taskforce, led by the Dutch DPA, is composed of representatives of the French, Italian, Spanish, Belgian, German DPAs as well as of the ICO, UK. This taskforce, in charge of coordinating the national investigations on this important issue, will continue its ongoing work. This is in addition to the existing taskforce, led by the UK ICO, focusing on changes to the WhatsApp privacy policy.

4. ELECTION OF NEW CHAIR OF THE WP29

The Article 29 Working Party has elected Andrea Jelinek, head of Austria's data protection authority, as its new chairwoman. The election results were announced during a joint WP29 press conference held by outgoing Chairwoman Isabelle Falque-Pierrotin, together with Andrea Jelinek. At this press conference, the WP29 also presented the outgoing Chair's 2014-2018 track record.

GDPR Guidelines prepared by the WP29

Finalised GDPR Guidelines

- Guidelines on Data Protection Officers (DPO)
- Guidelines on the right to data portability
- Guidelines for identifying a controller or processor's Lead Supervisory Authority
- Guidelines on Data Protection Impact Assessment (DPIA) and determining whether processing is "likely to result in a high risk"
- Guidelines on Automated individual decision-making and Profiling
- Guidelines on Data Breach Notifications
- Guidelines on Administrative fines
- BCR referential for data controllers
- BCR referential for data processors
- Adequacy referential

GDPR Guidelines currently to be open for public consultation for a period of 6 weeks

- Guidelines on Derogations for transfers
- Guidelines on Accreditation

GDPR Guidelines no longer under public consultation but still to be finally adopted by the WP29

- Guidelines on Consent
- Guidelines on Transparency