



Brussels, 15 February 2010

**WORKING PARTY ON THE PROTECTION OF INDIVIDUALS WITH REGARD TO THE
PROCESSING OF PERSONAL DATA**

RULES OF PROCEDURE

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 D (Fundamental Rights & Citizenship) of the European Commission, Directorate General Justice, Freedom and Security, B-1049 Brussels, Belgium, Office No LX-46 01/190.

Website: http://ec.europa.eu/justice_home/fsj/privacy/index_en.htm

THE WORKING PARTY ON THE PROTECTION OF INDIVIDUALS WITH REGARD TO THE
PROCESSING OF PERSONAL DATA

set up by Directive 95/46/EC of the European Parliament and of the Council of 24
October 1995¹,

in pursuance of Articles 29 and 30 of that Directive,

has drawn up its Rules of Procedure as follows²:

Article 1

1. The Working Party shall have advisory status and act independently.[Art.29(1)]
2. The Working Party shall:
 - (a) examine any question covering the application of the national measures adopted under this Directive in order to contribute to the uniform application of such measures;
 - (b) give the Commission an opinion on the level of protection in the Community and in third countries;
 - (c) advise the Commission on any proposed amendment of this Directive, on any additional or specific measures to safeguard the rights and freedoms of natural persons with regard to the processing of personal data and on any other proposed Community measures affecting such rights and freedoms;
 - (d) give an opinion on codes of conduct drawn up at Community level. [Art. 30(1)]
- 3 If the Working Party finds that divergences likely to affect the equivalence of protection for persons with regard to the processing of personal data in the Community are arising between the laws or practices of Member States, it shall inform the Commission accordingly. [Art. 30(2)]
- 4 The Working Party may, on its own initiative, make recommendations on all matters relating to the protection of persons with regard to the processing of personal data in the Community.[Art. 30(3)]

¹ OJ no. L 281 of 23/11/1995, p. 31

² The present version includes the relevant provisions of directive 95/46/EC, a reference to the corresponding articles of the directive appears in square brackets.

Membership of the Working Party

Article 2

1. The Working Party shall be composed of a representative of the supervisory authority or authorities designated by each Member State, a representative of the European Data Protection Supervisor and a representative of the European Commission. [Art. 29(2)]
2. Each member of the Working Party shall be designated by the institution, authority or authorities which he represents. Where a Member State has designated more than one supervisory authority, they shall nominate a joint representative. [Art.29(2)]
3. The authorities and institutions mentioned in the above paragraphs shall designate an alternate according to the same procedures. A second alternate may be designated if needed.
4. The authorities and institutions mentioned in the above paragraphs shall inform the secretariat of the names of these representatives.
5. Where a Member State has not designated the authority or authorities cited in the first paragraph of this article, the Chair shall invite, in accordance with Article 9, the Member State concerned to designate an observer. The said observer shall have the right to speak but shall not have voting rights.

Chairmanship of the Working Party

Article 3

1. The Working Party shall elect a Chair and two Vice-Chairs by means of a secret ballot.
2. The Chair and the Vice-Chairs of the Working Party shall be elected by absolute majority of the members of the Working Party who are entitled to vote according to Article 17.
3. The term of office of the Chair and the Vice-Chairs shall be two years. The term of office of the Chair and Vice-Chairs shall be renewable [Art.29(4)] only once.

Secretariat

Article 4

1. The Secretariat of the Working Party shall be provided by the services of the Commission^(*).
2. The Secretariat shall prepare the work of the Working Party in liaison with the Chair. The Secretariat shall assist the Working Party in the preparation of draft opinions and recommendations.
3. Correspondence intended for the Working Party shall be addressed to the Secretariat.

Convening of the Working Party and venue

Article 5

1. The Working Party shall be convened on the initiative of its Chair. It may also be convened by its Chair on request by at least one third of its full members or by the European Commission.
2. The Chair shall then convene the meetings of the Working Party in liaison with the Secretariat.
3. The Secretariat of the Working Party shall issue the invitations and the draft agenda to each member not less than three weeks before the proposed date of the meeting and shall at the same time inform each alternate.
4. In an emergency, the period of three weeks specified above may be shortened, but in any event not to less than two weeks.
5. Two weeks before the meeting an agenda suitable for the public should be issued and published on the website.

Article 6

As a general rule, meetings of the Working Party shall be held at the offices of the Commission.

^(*)Address: Secretariat of the Working Party on the protection
of individuals with regard to the processing of personal data
Directorate-General for Justice, Freedom and Security
Commission of the European Communities
Rue de la Loi 200
B - 1049 Brussels

Agenda

Article 7

1. Draft agendas shall be prepared by the Chair in liaison with the Secretariat, either on his/her own initiative or at the request of a representative of the supervisory authorities or at the European Commission's request. [Art.29(7)]
2. The Chair may decide at the request of a member to place an additional item on the agenda or to delete part of the draft agenda.
3. The Working Party shall approve the draft agenda at the beginning of each meeting.
4. The Chair shall set a deadline for submission of documents relevant to the agenda, to be at least two weeks in advance of the meeting or one week in advance if the meeting is convened as a matter of urgency.
5. If essential documents are not submitted in time the Working Party shall decide whether or not to discuss the item.

Attendance

Article 8

Any member who is unable to attend a meeting must inform his alternate and the Secretariat of the Working Party as soon as possible.

Admission to meetings

Article 9

1. Besides the members and alternates, experts or observers invited by the Chair pursuant to a decision of the Working Party may participate in the meetings:
2. The Chair pursuant to a decision of the Working Party authorises the members of the Working Party to be assisted by experts of their confidence for one or several meetings. The members shall inform the secretariat of the names of these experts.

Quorum

Article 10

A meeting of the Working Party shall be valid if more than half of the persons having the right to vote in accordance with article 17 are present.

Organisation of Discussions

Article 11

1. In line with Article 339 of the Treaty on the Functioning of the European Union, the members of the Working Party experts and observers shall exercise discretion with regard to the Working Party's discussions.
The minutes and any draft documents of the Working Party shall be restricted documents, unless the Working Party decides otherwise.
Opinions, recommendations and any other document adopted by the Working Party shall be published on the website, unless the Working Party decides otherwise.
2. The Chair in liaison with the Secretariat shall prepare a press release to be published on the website, soon after the meeting that relates to the major agenda items, documents adopted or other news as appropriate.
3. The Chair shall direct the proceedings. If the Chair is unable to attend he/she shall be replaced by one of the Vice-Chairs.
4. If no Vice-Chair is able to attend, the Chair shall be replaced by a member chosen by a majority of those having the right to vote, in accordance with Article 17.

Decisions of the Working Party

Article 12

1. The Working Party shall decide by a majority of the votes validly cast, abstentions being regarded as votes validly cast. The decisions of the Working Party shall include views, if any, expressed by the various members of the Working Party where the latter so request.
2. In the event of a tie, the proposal shall be treated as not carried.

Written Procedure

Article 13

1. The Working Party may decide unanimously to submit a specific question to a written vote.
2. The Chair in urgent cases may submit any matter to a written vote.
3. The draft which is subject to a vote shall be sent by the Secretariat to the members entitled to vote in accordance with article 17. The members entitled to vote shall inform the Secretariat of their vote in writing within a term fixed by the Chair which is, in general, fourteen days. However in urgent cases the Chair may decide to shorten this deadline to at least 7 days. Failure to inform the Secretariat in such term shall be considered to be an abstention. The Secretariat shall inform the members of the results of the vote. The result of the vote is recorded in the minutes of the following meeting of the Working Party.

4. The written procedure initiated in accordance with paragraph 2 shall be interrupted if one of the members entitled to vote in accordance with article 17 requests within 5 days of receiving the draft that the draft be discussed during a meeting of the Working Party.

Article 14

1. Reasons must be given for the opinions and recommendations of the Working Party.
2. Opinions and recommendations shall be communicated to the Commission and to the Committee referred to in Article 31 of Directive 95/46/EC.[Art.30(4)] Alternates shall receive copies.

Annual Report

Article 15

1. The Working Party shall draw up an annual report on the situation regarding the protection of natural persons with regard to the processing of personal data in the Community and in third countries, which it shall transmit to the Commission, the European Parliament and the Council. The report shall be made public.[art. 30(6)]
2. The report referred to in the first paragraph above shall be adopted by the Working Party, transmitted by the Chairman to the Institutions mentioned in the said paragraph and made public by the Secretariat.

Subgroups and rapporteurs

Article 16

1. The Working Party may establish one or more subgroups to prepare its position on certain matters and shall decide on their mandate.
2. The Working Party may nominate one or several rapporteurs on specific questions and to prepare the annual report referred to in Article 15.

Voting Rights

Article 17

1. Only members who represent the supervisory authorities shall be entitled to vote.[Art.29(3)]
2. Where an alternate replaces the voting member to whom he is designated, he/she shall be entitled to vote in his/her place.

Minutes of meetings

Article 18

1. The Secretariat shall produce the minutes of each meeting.

These shall comprise:

- a) a list of those present at the meeting;
 - b) a brief summary record of the proceedings;
 - c) opinions and recommendations adopted by the Working Party, giving an indication of the voting figures for each vote taken and where appropriate of the dissenting opinions.
2. At the beginning of each meeting, the Working Party shall adopt the minutes of the previous meeting.
 3. Minutes shall be submitted for adoption by the Working Party only when the draft text has been sent to the members and alternates not less than fifteen days in advance of the meeting; if the draft was not dispatched in time, approval shall be held over until the following meeting.
 4. Amendments to draft minutes must where possible be submitted in writing in advance of the meeting at which the draft minutes are to be approved.

Amendments to the rules of procedure

Article 19

These rules shall be amended according to the provisions of Article 17.