



Press Release
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ARTICLE 29 DATA PROTECTION WORKING PARTY

At its 60th meeting in Brussels on 17th and 18th April 2007, the Article 29 Data Protection Working Party considered again the SWIFT case as well as the related topic of US pre-trial discovery, emphasised the need to inform US-bound travellers correctly about the transfer of so-called Passenger Name Records, decided to strengthen the co-operation with the Council of Europe in the field of data protection, moved towards a common position on data protection and the rights of children, revisited the concept of personal data and discussed a wide range of other data protection issues.

After the meeting the chairman of the Working Party, Peter Schaar, commented on the SWIFT case: "The Working Party acknowledges that considerable progress has been made in particular when it comes to the adherence of SWIFT to the Safe Harbor scheme and the ongoing EU-US negotiations in this field. However, significant issues remain unresolved in particular the information of bank clients on the transfer of their data to US authorities. The Working Party insists on complete compliance. A similar, related matter of concern to the Working Party is the issue of pre-trial discovery, which compels companies based in Europe to disclose data to entities within the US. This question raises concerns on a far broader scale than originally thought."

The main topics discussed at the meeting were:

SWIFT: Representatives of SWIFT reported again on steps taken since the adoption of the Article 29 Working Party' Opinion 128 on November 22, 2006 and initiatives planned for the future. The Working Party assessed the actions taken by SWIFT in particular those measures to increase transparency and to improve data protection awareness within the cooperative. Although progress has been made, many outstanding issues remain. It was agreed that SWIFT will report again to the Art. 29 Working Party at its next meeting in June 2007. All parties concerned are aware that further steps must be taken and that the Working Party will continue to insist on full compliance with EU data protection regulations. In addition to that, national data protection authorities will maintain their pressure on financial institutions to inform their clients about the current situation and to come to privacy enhancing solutions when money is transferred within Europe.

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 (Civil Justice, Rights and Citizenship) of the European Commission, Directorate General Justice, Freedom and Security, B-1049 Brussels, Belgium, Office No LX-46 01/43.

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

The issue of pre-trial discovery and the vulnerability of the corporate community of Europe to US court orders is a rapidly growing source of concern.

PNR: The Working Party discussed also the way how airlines and travel agents across Europe inform US-bound passengers on the transfer of so-called PNR data to US authorities in particular following the adoption of the Art. 29 Working Party's Opinion 132 on February 15, 2007 which gives clear guidance to air carriers and travel agents alike on this subject. The Working Party decided to take up this issue with the industry in order to bring the current practice in line with the requirements of the Data Protection Directive.

Processing of personal data in Electronic Health Record (EHR): Following the Opinion 131 adopted at the last plenary meeting, the WP stresses that safeguards are necessary to guarantee the data protection rights of patients and individuals.

As advised earlier, the document is subject to public consultation until 13 June 2007.

ICANN (Internet Corporation for Assigned Names and Numbers) meeting in Lisbon, 24-28 March 2007: The WP welcomes the adoption by ICANN's Governmental Advisory Committee (GAC) of the principles regarding gTLD WHOIS Services. These principles, which are intended to guide work within ICANN, clearly require the observance of national safeguards for individual's privacy.

Children's privacy: The Working Party discussed various aspects of a draft Opinion reflecting the common position of its members as regards the protection of children's privacy. As indicated previously, the WP intends ultimately to launch this topic for public debate.

Exchange of information between national authorities: The Working Party heard presentations by the EU Commission on proposed information exchange systems in the areas of both the regulated professions and enforcement of consumer protection laws, and considered data protection issues raised by such systems.

Biometrics and residence permits for third country nationals: The Working Party considered the conformity of proposals to introduce biometric identification of third country nationals seeking residence permits to the legal requirements set out by the Data Protection Directive.

Definition of personal data: In order to rectify a recent trend of divergence in the interpretation of the Data Protection Directive with respect to the definition of "personal data", the Working Party dedicated considerable effort and time to a detailed report on the concept of personal data. The Working Party considers a uniform interpretation of the Directive in general, and this provision in particular, to be of utmost importance in enhancing the proper implementation of the Data Protection Directive and will adopt a respective Opinion on this issue in due course.

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 WP is competent to examine questions covering the application of the national measures adopted under the data protection directives in order to contribute to the uniform application of the directives. It carries out this task by issuing recommendations, opinions¹ and working documents.

¹ The Opinions of the WP can be found at:
http://ec.europa.eu/justice_home/fsj/privacy/workinggroup/wpdocs/2007_en.htm