

**Press Release**  
**Communiqué de presse**  
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**Brussels, 10 April 2014**

**ARTICLE 29 DATA PROTECTION WORKING PARTY**

**The plenary meeting of 9 and 10 April 2014 marked the launch of an internal consultation on possible improvements in the Article 29 Working Party's methods and organisation. The 95th plenary adopted the following documents:**

- **an opinion on surveillance following the recent revelations on surveillance programmes (see separate [press release](#));**
- **its response to the Communication from the European Commission regarding the functioning of Safe Harbor;**
- **a statement on the one-stop shop in the draft EU data protection regulation;**
- **an opinion on legitimate interest;**
- **an opinion on anonymisation techniques.**

These documents should soon be available on the Working Party's [website](#).

**Safe Harbor**

In its response to the Commission Communication of 27 November 2013, the Working Party agrees that restoring trust in EU-US transfers cannot take place without strengthening the safeguards provided by Safe Harbor. In the context of the current discussions between the Commission and the US authorities to adapt the Safe Harbor framework, the Working Party supports the view that, under the current circumstances, the possibility for Safe Harbor to provide adequate protection for EU citizens is questionable and recognises that if the revision process currently undertaken by the Commission does not lead to a positive outcome, the Safe Harbor agreement should be suspended. The Working Party also recalls that data protection authorities may suspend data flows according to their national competence and EU law. The Working Party further points out some additional elements that should be improved in the Safe Harbor Decision, for use in ongoing negotiations with the US, in order to efficiently protect EU data subjects whose personal data are transferred to the US under the Safe Harbor framework.

**Draft EU regulation – One-stop shop**

In its statement on the one-stop shop, the Working Party proposes a possible compromise between the European Parliament's position and the ideas actually being debated within the EU Council as regards the governance in cross-border cases. The Working Party aims to highlight the core elements of a one-stop shop that will meet the needs of businesses as well as those of citizens.

**Legitimate interest**

The opinion specifies the conditions that the data controller must satisfy, and the steps that he must follow, when relying on its legitimate interest under Article 7(f) of Directive 95/46/EC as a legal ground for processing. Article 7(f) requires a balancing of the legitimate interests of the controller, or any third parties to whom the data are disclosed, against the interests or fundamental rights of the data subject. Appropriate use of Article 7(f) may help prevent over-reliance on other legal grounds such as consent. However, its use should not be unduly extended on the basis of a perception that it is less constraining than the other grounds. To help ensure legal certainty, the Working Party recommends

inserting a recital into the draft EU data protection EU regulation to specify the criteria the controller should take into account when carrying out the necessary 'balancing test'. The Working Party invites written comments from stakeholders within six weeks of the opinion's publication, that is, by 27 May 2014.

### **Anonymisation techniques**

Recalling that anonymised data fall outside the scope of data protection legislation, the opinion assesses the effectiveness and limits of existing anonymisation techniques. On that basis, practical recommendations are made to help data controllers choose how to design an adequate anonymisation process. Data controllers are however invited not to consider anonymisation as a one-off exercise and to reassess the risks regularly, considering that anonymisation and re-identification are active fields of research and new discoveries are regularly published. Incidentally, the opinion clarifies that pseudonymisation is not a method of anonymisation, but merely a useful security measure to reduce the linkability of a dataset with the original identity of a data subject.

**Other issues on the agenda** include: international enforcement cooperation; tracking through device fingerprinting; the Internet of Things; standardisation; cloud computing; the risk-based approach; the Council of Europe Convention on cybercriminality; Smart Borders; data breach notifications; next steps after the adoption of the APEC CBPR- EU BCR referential.

It was announced at the plenary that the **European Conference of Data Protection Commissioners** will be held in Strasbourg on 5 June 2014, jointly organised by the Council of Europe and the French data protection authority (CNIL).

### **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 Article 29 Working Party is competent to examine any question covering the application of the data protection directives in order to contribute to the uniform application of the directives. It carries out this task by issuing recommendations, opinions and working documents.

[http://ec.europa.eu/justice/data-protection/article-29/index\\_en.htm](http://ec.europa.eu/justice/data-protection/article-29/index_en.htm)