

ARTICLE 29 WORKING PARTY – JUNE 2017 PLENARY MEETING

The Article 29 Working Party (WP29), at the June plenary meeting, examined certain critical matters with regards to the implementation of the General Data Protection Regulation (GDPR) and of the Privacy Shield and adopted documents on other issues.

1. IMPLEMENTATION OF THE GDPR AND ADOPTION OF GUIDELINES

The WP29 discussed the 40 contributions received during the public consultation on the draft Data Protection Impact Assessment (DPIA) guidelines which ended on May 23, 2017. The final version of the guidelines will be adopted at the October plenary.

The Working Party also continued its work on the draft certification guidelines.

Each WP29 subgroup, provided a state of play of its works related to the GDPR and the 2017 Action Plan (consent, profiling, transparency, data breach notifications and data transfers) with the aim to adopt guidelines by December 2017.

Finally, the plenary meeting worked on the organization and structure of the European Data Protection Board (EDPB) to be ready by May 25, 2018 and on the tools necessary for the cooperation between DPAs under the new framework.

2. PRIVACY SHIELD – JOINT ANNUAL REVIEW

The WP29 adopted a letter addressed to the European Commission sharing its views and recommendations on the operational and substantive modalities of the Joint Review of the recent US-EU agreement on data transfers.

The Joint Review will take place in September 2017 in the US with the participation of 8 WP29 members.

For further information on the preparation of the joint annual review please refer to the relevant dedicated press release published on June 13, 2017 on the WP29 website.

3. ADOPTION OF DOCUMENTS ON SOME ISSUES

- Financial matters

The WP29 adopted a letter addressed to the European Securities and Markets Authority (ESMA). This letter provides guidance and recommendations to ESMA and European national financial supervisory authorities on the way to frame international transfers of personal data under Article 46 of the GDPR, to third country authorities in countries which have not been recognized by the European Commission as offering an adequate level of data protection.

- Employee monitoring

The WP29 also adopted an opinion on employee monitoring. This opinion serves as an update of Opinion 08/2001 with a view to consider other types of monitoring solutions since the latter's adoption in 2001. In addition, since 2001, a number of new technologies have been adopted that enable more systematic processing of employees' personal data at work, creating significant new challenges to privacy and data protection. Therefore, this opinion makes a new assessment of the balance between legitimate interests of employers and the reasonable privacy expectations of employees.

4. NEW MANDATES FOR WP29 Subgroups

The plenary gave three different mandates to some of its subgroups:

- (i) **International transfers subgroup:** to **update** the already adopted opinion on international transfers of personal data between public bodies for administrative cooperation purposes in the light of the GDPR.
- (ii) **Financial matters subgroup:** to **review** the data protection clauses developed by national tax authorities to accompany the Common Reporting Standard (CRS) developed by the OECD in 2014, on the inter-state exchange of information to address the issue of tax evasion.
- (iii) **Enforcement subgroup:** to **prepare** a letter to be addressed to WhatsApp on key issues of concern including consent and legitimate interests including proposed solutions to remedy to areas of non-compliance.

The WP29 also intends to hold further considerations on the recent discussion paper from the European Commission's services on cross-border access to electronic evidence. This document presented to the Ministers of Justice of the EU for discussion recalls among others, the difficulties and shortcomings of the current legal systems of the Member States to ensure swift and efficient access to electronic evidence detained by private companies in the context of criminal investigations.

Further guidance on the Police and Justice Directive is also currently being prepared and discussions continue on the future of supervision models related to EU bodies, agencies, offices and IT systems in the area of law enforcement.

5. NATIONAL IMPLEMENTATION MEASURES ON THE GDPR

Several delegations presented to the plenary their national implementation measures and initiatives put in place for the preparation of the GDPR. These measures include among others, social media communication strategies, in-house trainings and national GDPR guidelines for small and medium sized companies (SMEs).

The objective of this exercise is to create a common library and to mutualize the resources in relation to the GDPR preparations.