

## ARTICLE 29 Data Protection Working Party



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Dear Governments of the EU Member States,

As you know, the new legal framework on data protection in the European Union was published in May 2016. It consists in a Regulation (EU/2016/679) which will apply from 25 May 2018 and in a Directive on Police and Justice (EU/2016/680) which must be transposed by 6 May 2018. Both represent a comprehensive reform of data protection rules where national Supervisory authorities' powers and role are increased in the EU.

This new legal framework requires the respective Member States to provide their Supervisory authorities “*with the human, technical and financial resources, premises and infrastructure necessary for the effective performance of [their] tasks and exercise of [their] powers [...]*”<sup>1</sup>.

Notwithstanding the formal deadline of May 2018, Supervisory authorities have already started working intensively on the future requirements. At the Article 29 Working Party (WP29), the group of EU Data Protection Authorities have adopted two successive Action Plans in 2016 and 2017. Accordingly, work is being conducted for instance on enforcement cooperation measures, portability, profiling, transparency and the development of several tools for compliance (e.g. DPO, certification, data protection impact assessment)<sup>2</sup>.

In parallel, a review of the ePrivacy Directive (2002/58/EC) is also now underway at the EU Institutions. It has been proposed that a Regulation on Privacy and Electronic Communications (ePrivacy) should apply from May 2018 like the GDPR and Directive on Police and Justice. It is generally understood that the ePrivacy Regulation will enhance Supervisory authorities' roles. For instance, they should be responsible for – but not limited to – a broader range of electronic communication providers with reinforced protection on consent for cookies, online tracking, confidentiality and use of metadata.

Moreover, the Article 29 Working Party also underlines to Governments about the Additional Protocol to Convention No 108 of the Council of Europe which recognises that Supervisory

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<sup>1</sup> Article 52 (4) GDPR and 42 (4) Directive Police and Justice.

<sup>2</sup> 417/16/EN/WP235: Work programme 2016 – 2018 adopted on 2 February 2016

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 (Fundamental rights and rule of law) of the European Commission, Directorate General Justice and Consumers, B-1049 Brussels, Belgium, Office No MO59 02/27

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

authorities are a necessary element for the effective protection of individuals with regard to the processing of their personal data and that to be effective such authorities shall act in complete independence and must have the necessary powers and resources to fulfil their duties.

In the coming months, the role and responsibilities of Supervisory authorities will thus be far broader in scope and scale, both at national and European level.

The WP29 would like to raise European Governments' awareness of this situation and its consequences in terms of resources for Supervisory authorities. Indeed in this context some Member States have entered the process of reviewing their national Supervisory authorities' resources.

Beyond these initiatives and given the absolute necessity to prepare and professionally implement the new legal framework, it is vital to give these authorities the means to effectively perform their new tasks, train their own staff, upgrade their IT-systems, promote awareness and give guidance on the new rules, to ensure a high level of data protection for European individuals.

Therefore, the WP29 calls upon Governments of the EU Member States and, where applicable, to regional Governments within these States to provide sufficient financial and human resources for national Supervisory authorities to conduct their duties not only once the new legal frameworks apply, but also essentially beforehand, during the critical transitional period.

We remain at your disposal for any further input you may require on this crucial matter.

Yours sincerely,

On behalf of the Article 29 Working Party,



Isabelle FALQUE-PIERROTIN  
Chairwoman

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- Ms Věra Jourová, European Commissioner for Justice, Consumers and Gender Equality
- Mr Antonio Tajani, President of the European Parliament