

ARTICLE 29 Data Protection Working Party

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ARTICLE 29 DATA PROTECTION WORKING PARTY

At its 61st meeting in Brussels on the 19th and 20th June 2007, the Article 29 Data Protection Working Party continued its deliberations on the SWIFT case, issued a first report on investigations into the health insurance sector, adopted an important document on the definition of personal data, developed a common position on data protection and the rights of children, and engaged in a discussion on the transfer of passenger data to the US.

The main topics discussed at the meeting were:

SWIFT: The Working Party took stock of the progress made by SWIFT and financial institutions since the last plenary meeting in order to address the findings of the Article 29 Working Party in its Opinion¹ of 22 November 2006 (WP 128). The Working Party met again with representatives of SWIFT, who reported on progress achieved so far. The discussion with representatives of European banking associations focused in particular on the legal obligation of financial institutions to provide appropriate information to their clients on the fact that US authorities might have access to personal data when money is transferred within the European Union. Although progress has been made, further action is still necessary to remedy the concerns the Working Party expressed previously. For that reason the Working Party set the 1st September 2007 as the deadline for financial institutions to take all necessary steps to improve the current situation.

PNR: The Working Party again stressed the importance of a follow-up PNR Agreement under discussion now, as the current interim agreement with the US will expire at the end of July. Transatlantic passengers, air carriers and data protection authorities alike need legal security for the transfer of passenger data to the US-Department of Homeland Security.

The Working Party decided, also, to continue its dialogue with the airline industry, with the aim of improving the current situation as regards the information given to passengers when they book a flight to the US. Air carriers, as well as travel agents, are obliged under the ECDirective to inform their customers adequately about the transfer of data and its processing by US authorities. The Working Party referred in this context explicitly to its Working Paper 132 adopted in February 2007, which gives a comprehensive and clear guidance to air carriers and travel agents.

Definition of personal data: The Working Party adopted a detailed document interpreting the notion of "personal data". This notion is essential for the proper interpretation and application of the Data Protection Directive. The document aims to introduce a uniform interpretation of the EC Directive in general, thus enhancing legal certainty. It will be published on the Working Party's website in the coming days.

¹ The Opinions of the WP can be found at:

http://ec.europa.eu/justice_home/fsj/privacy/workinggroup/wpdocs/2007_en.htm

Enforcement: The Working Party issued a much-awaited report on the results of a joint investigation into the health insurance sector, carried out on a European level by all national data protection authorities. The aim of this exercise was to assess compliance with data protection rules by the insurance companies which extensively process the sensitive data of a large number of European citizens. Although for the most part the companies are aware of data protection rules, nevertheless, there are shortcomings in some areas. The Working Party, therefore, will continue its cooperation with the health insurance industry by issuing recommendations to promote privacy enhancing policies, and to raise awareness among customers. The Working Party will decide on further action to be taken in this area at a later stage. The report will soon be available on the Working Party's website.

Biometrics and residence permits for third country nationals: The Working Party, at the request of the European Commission, adopted a paper giving recommendations on the amended proposal on this topic. The Working Party expressed its hope that these recommendations would be duly taken into account to guarantee the data protection rights of third country nationals living in the European Union.

Children's privacy: The Working Party continued its discussions on a draft opinion addressing the privacy concerns of minors. Such an opinion will ultimately reflect the common position of the Working Party as regards the protection of children's privacy and the promotion of awareness among parents and all others responsible for the wellbeing of children, as part of an EU initiative in this area. The Working Party aims eventually to launch this topic for public discussion.

Search Engines: The Working Party took note of Google's response to its letter of 16 May 2007 which mainly provided information on its storage periods for server logs. The Working Party decided to carefully analyse this reply as well as the privacy policies of other search engines in the coming weeks, and evaluate the data protection issues stake. Taking into account the current situation initiated by the "Google case", the Working Party will deal with search engines in general, and scrutinize their activities from a data protection point of view, because this issue affects an ever growing number of users.

In this respect, the Working Party wants to recall the Resolution on Privacy Protection and Search Engines adopted in London on 2 and 3 November 2006 by the 28th International Data Protection and Privacy Commissioners' Conference and its intention to work towards its implementation into practice.

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 interpret the provisions 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.