



Press Release
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ARTICLE 29 DATA PROTECTION WORKING PARTY

At its 62nd session the Art. 29 Working Party discussed a wide range of topics starting with the SWIFT case followed by deliberations on enforcement measures in the health insurance sector, privacy issues at search engines and the protection of passenger rights. Furthermore it adopted two Opinions on the level of data protection in both Jersey and the Faroe Islands.

SWIFT: The Art. 29 Working Party has conducted a preliminary analysis of the compliance of banks with their duty to provide information to customers in each country of the EU. These findings show clear improvements. National data protection authorities will continue to monitor the compliance of banks with data protection principles, especially where shortcomings have been identified.

The Working Party has also been informed of recent measures taken by SWIFT with regard to transparency, as well as its decision to restructure its network. The new structure foresees by the end of 2009 the creation of a new operation centre in Switzerland. This means personal data in intra-European transactions will no longer be processed in the US operating centre while EU-US transactions will continue to be processed in the US. With regard to other international transactions involving both EU and non-EU banks the location of their storage is still to be defined.

Without prejudice to the evaluation of other aspects of measures taken by SWIFT, now under scrutiny of the Belgian Data Protection Authority, the Working Party welcomes the clear progress made by SWIFT, especially on technical aspects of compliance with data protection principles.

EU-US PNR Agreement: Following the adoption of Working Paper 138 on August 17, 2007 on the recently signed PNR Agreement with the US the Working Party has sent a letter to the Commission asking for clarification on several outstanding issues. One of those concerns identified in the Opinion regards the way airlines transfer personal data to US authorities. Despite the fact that EU carriers are poised to realise a “push-system” by the end of the year – a demand already made in 2004 by the Working Party - this no longer seems realistic. The Working Party, therefore, called on both contracting parties to identify the

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

obstacles on the way to a privacy enhancing solution when transmitting passenger data, and to speed up their efforts in order to implement the provisions of the agreement with a view to guaranteeing passenger rights as enshrined in the agreement.

In this context, the Working Party also reiterated its stance as to the obligation of air carriers to inform their customers about the transfer of passenger data to the US Department of Homeland Security. Information has to be given in a timely manner, and must be adequate, as outlined in Working Paper 132, adopted in February 2007. More needs to be done both to raise awareness among passengers, and also to comply with current EU data protection rules.

EU PNR Regime: The Commission informed the Working Party about its plans to introduce a EU PNR regime in the near future, and that a respective proposal is currently being drafted. The Working Party emphasised that it had already published on its website on January 31, 2007 a paper on this issue, in which it outlined its concerns and demands. Any future EU PNR regime which will affect millions of travellers every year must take the legitimate interests of all players into account, namely, the passengers and the airlines, and that the right balance has to be struck between the passengers' right to privacy on the one hand and the security needs of law enforcement agencies on the other hand. In the discussion on a future EU PNR regime, all stakeholders must be properly informed and heard. The Working Party will continue to contribute to the debate by providing its expertise and experience in this field.

Adequate level of data protection in Jersey and the Faroe Islands:

The Working Party adopted two Opinions, on the adequate level of data protection in both Jersey and the Faroe Islands, which will enable the Commission to take further steps towards a Commission decision on adequacy. In the past the Commission has adopted adequacy decisions on such countries as Switzerland and Argentina after receiving the advice of the Art. 29 Working Party. The Commission decision makes the transfer of personal data to such countries much easier than to third countries in relation to which such a decision has not been adopted.

Enforcement: Following its investigation into the health insurance sector and the publication of its respective report (Working Paper 137) on June 20, 2007 the Working Party decided to draw up guidelines for the sector which will address the privacy concerns outlined in the report and which will help raise awareness among customers and companies alike. The Working Party considers it crucial to engage in a continuous dialogue with the industry particularly due to the fact that sensitive data are being processed, and that almost all European citizens are affected.

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, opinions and working documents.

http://ec.europa.eu/justice_home/fsj/privacy/workinggroup/index_en.htm