

Press Release
Communiqué de presse
Mitteilung für die Presse

ARTICLE 29 WORKING PARTY – NOVEMBER 2017 PLENARY MEETING

The Article 29 Working Party (WP29) at its November plenary meeting which took place on the 28th and 29th of November, examined certain critical matters with regards to the implementation of the General Data Protection Regulation (GDPR) and the Privacy Shield and adopted more than ten key documents such as the Privacy Shield Report, the guidelines on consent and transparency as well as the adequacy and Binding Corporate Rules (BCR) referentials for controllers and processors.

1. IMPLEMENTATION OF THE GDPR AND ADOPTED GUIDELINES

The WP29 adopted its guidelines on consent and transparency as well as its updated referentials on adequacy and BCRs for controllers and processors. These documents will be published on the WP29 newsroom in the coming days and will remain open for public consultation for a period of 6 weeks before their final adoption.

Moreover, the WP29 worked on tools for the cooperation between DPAs on data breach notifications.

On certification, the discussions are continuing and the guidelines should be proposed for adoption at the February plenary.

A state of play was also provided on the advancement of the work on the preparation of the guidelines on derogations for transfers of the GDPR which should be proposed for adoption in February as well.

Finally, the WP29 worked on the organization and structure of the European Data Protection Board (EDPB) to be ready for May 2018 and adopted a draft Memorandum of Understanding (MOU) between the EDPB and the European Data Protection Supervisor (EDPS), on the functioning of the EDPB Secretariat to be provided by the EDPS.

2. PRIVACY SHIELD - FIRST JOINT ANNUAL REVIEW REPORT

The WP29 adopted the Privacy Shield report on the Privacy Shield after the first Joint Annual Review which took place in September 2017 in Washington DC.

For more information please see the separate statement on the Privacy Shield Joint Annual Review Report which is/will be published on the WP29 newsroom.

3. ADOPTION OF OPINIONS AND LETTERS ON TRANSVERSAL ISSUES

- E- evidence Statement

Following the consultation process launched by the European Commission on the matter, the WP29 adopted a comprehensive statement on access to electronic evidence in criminal investigations. The WP29 highlights several concerns and reservations on the legislative options currently considered by the Commission and recalls the necessity to ensure that the future legislative proposal fully complies, in particular, with the existing EU data protection acquis as well as with EU law and case law in general. The WP29 statement also addresses the most recent developments in the Microsoft warrant case in the US, emphasizing that EU data protection law provides that existing international

agreements such as a mutual assistance treaty (MLAT), must, as a general rule, be obeyed when law enforcement authorities in third countries request access or disclosure from EU data controllers.

- Law Enforcement Directive Opinion

The WP29 adopted its opinion on key provisions of the Law Enforcement Directive such as on time limits for storage and review, the processing of special categories of personal data, automated decision making and profiling, rights of the data subjects, logging and on the powers of data protection authorities.

- Fining taskforce

A permanent taskforce whose work will focus on the harmonization of calculating the fines has been established within the WP29. The first meeting of the taskforce will be held in December and will focus on exchanging existing practices, on determining the biggest differences between national practices, and to discuss the way forward.

- UBER data breach case

As already announced, the WP29 established a taskforce on the UBER data breach case. This taskforce, led by the Dutch DPA, will be composed at this stage of representatives of the Italian, Spanish, French, Belgian, German DPAs as well as of the ICO and will coordinate the national investigations on this important issue.

- EASA letter on drones

A letter to be addressed to the European Aviation Safety Agency (EASA) was adopted at the plenary in response to the request for comments on the new regulation for Unmanned Aircraft Vehicle (UAV). The WP29 points out the privacy concerns raised by the foreseen regulation in particular with regards to the purpose of the registration of the drone owners and the electronic identification.

- ICANN letter

The WP29 adopted a letter to ICANN concerning privacy concerns related to the WHOIS directories, in particular the publication of WHOIS data. The WP29 also reiterates its longstanding invitation to enter into a dialogue with ICANN and its stakeholders to discuss the issues, including possible ways to address them.

4. MANDATES AND ONGOING WORK

The different WP29 subgroups received a number of mandates to complete or initiate projects on the interpretation of further aspects of the GDPR and on other privacy related topics.

The WP29 received a mandate to work on the development of a position on Article 3 of the GDPR, relating to its territorial scope.

The WP29 will also work on a new opinion on the proposal for an ePrivacy regulation, the timing of adoption will be as appropriate, depending on the progress made in the legislative process. In addition, the WP29 will prepare a statement on encryption.

Regarding the financial matters issues, the WP29 continues its active collaboration with the European Securities Markets Authority (ESMA) regarding the establishment of a framework for the exchange of information between European and non-European financial supervisory authorities. In addition, the group of experts, will examine the implementation of the Second Payment Service Directive in the different Member States and its compatibility with the GDPR.

Finally, the WP29 will continue its work on the multilateral agreement governing the cross-border exchange of health data within the e-Health Network. The purpose of this network, is to draw up guidelines addressed to the Member States with a view of achieving a minimum level of interoperability and facilitating transferability of data in cross-border healthcare.