

Press Release

Article 29 Working Party - April 2018 Plenary Meeting

The Article 29 Working Party (WP29) at its April plenary meeting examined specific critical matters with regard to the implementation of the General Data Protection Regulation (GDPR), adopted several key documents for the preparation of its application on the 25th of May 2018 such as the guidelines on consent and transparency and established a Social Media Working Group in the light of the recent revelations regarding Facebook / Cambridge Analytica.

1. IMPLEMENTATION OF THE GDPR AND ADOPTED GUIDELINES

The WP29 adopted its guidelines on consent and transparency after a public consultation of six weeks as well as the revised BCR application forms, the updated working document on BCR approval procedure and the revised guidelines on urgency procedure.

The WP29 also adopted a position paper on Article 30(5) GDPR.

To provide interpretation on further aspects of the GDPR the WP29 will continue its work regarding the guidelines on certification, the territorial scope of the GDPR (Article 3 GDPR) and codes of conduct (Article 40 and 41 GDPR). Moreover, the plenary granted a mandate to develop guidance in relation to Article 6(1)b GDPR, in particular in the context of the provision of “free” online services.

In preparation of the organization and structure of the European Data Protection Board (EDPB) the WP29 discussed amongst others its rules of procedure, its budgetary and technical set-up and the timetable of its meetings for 2019.

2. FACEBOOK / CAMBRIDGE ANALYTICA - ESTABLISHMENT OF A SOCIAL MEDIA WORKING GROUP

The UK's ICO provided the plenary with an update on their ongoing investigation of Cambridge Analytica and Facebook. The WP29 not only underlined its commitment to work closely together through the existing Facebook Contact Group but also established a Social Media Working Group to develop a long-term strategy on the issue in a broader way.

For further information, please see the press release published on April 11, 2018 on the WP29 website (http://ec.europa.eu/newsroom/article29/item-detail.cfm?item_id=621779).

3. ADOPTION OF OPINIONS AND LETTERS

The WP29 adopted an opinion on interoperability between EU information systems in the field of borders and visa as well as police and judicial cooperation, asylum and migration. The opinion analyses the tools and access rights on the fundamental rights to privacy and data protection under the two draft regulations COM 2017/793 and COM 2017/794 that are forming a new system architecture for the Schengen Information System (SIS II), the Visa Information System (VIS), the European Dactyloscopy (EURODAC), the future Entry-Exit-System (EES) as well as – in case of their adoption – the future European Travel Information and Authorization System (ETIAS) and the European Criminal Record Information System for Third Country Nationals (ECRIS-TCN).

Furthermore, the WP29 issued a statement on encryption and its impact on the protection of individuals with regard to the processing of their personal data in the EU.

The WP29 adopted letters addressed to the following recipients:

- EU COM on PNR: The WP29 calls upon the European Commission regarding the compliance of the PNR agreements with the US and Australia as well as the PNR directive with the opinion of the CJEU.
- EP on LIBE request regarding Section 702 of the US Foreign Intelligence Surveillance Act: The WP29 provides the LIBE (Civil Liberties, Justice and Home Affairs) Committee of the European Parliament with the key holdings on Section 702, as recalled in the WP29 report of the first annual joint review, followed by the main amendments made in the bill reauthorizing Section 702 FISA.
- ICANN and stakeholders: The WP29 takes note of the steps being undertaken by ICANN (Internet Corporation for Assigned Names and Numbers) to ensure that WHOIS directories and services will be compliant with the GDPR while highlighting a number of issues that require further consideration such as purpose specification, the lawfulness of processing, the access to non-public WHOIS data, security, retention period, international transfers as well as codes of conduct and accreditation.
- ISO on ISO 17065: In order to allow the supervisory authorities to fulfil their legal obligations under the GDPR, the WP29 requests ISO to make the ISO 17065 standard available free of charge.
- Facebook on facial recognition: The WP29 expresses its concerns and aims to get further clarification and information on certain aspects of this new functionality.
- ESMA and IOSCO on the draft administrative agreement: The WP29 highlights its remaining concerns regarding the draft administrative agreement according to Article 46(3)b GDPR developed by ESMA (European Securities and Markets Authority) and IOSCO (International Organization of Securities Commissions) with respect to data subject rights and transparency obligations.

4. MANDATES AND ONGOING WORK

- International transfers subgroup: The WP29 members discussed the developments regarding the EU-US Privacy Shield and the European Commission provided an update on this question.
- Enforcement subgroup: The WP29 gave mandates to compile a best practices manual for enforcement communication in cross-border cases, to identify open cross-border cases that will not be completely resolved by 25 May 2018, to recommend measures for effective cooperation in order to resolve them, to recommend, more generally, measures for effective cooperation in relation to future cross-border processing operations that will involve a large number of concerned supervisory authorities within the meaning of article 4(22) GDPR and to identify concrete enforcement actions to initiate from May 2018.
- Technology subgroup: The WP29 gave a mandate to work on video surveillance issues, with the view of drafting an opinion.