

# ARTICLE 29 DATA PROTECTION WORKING PARTY



/07/EN  
WP 135

**Revised and Updated Policy to promote the transparency of the activities of the Working Party established by Article 29 of Directive 95/46/EC**

**Adopted on 15 February 2007**

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://ec.europa.eu/justice\\_home/fsj/privacy/index\\_en.htm](http://ec.europa.eu/justice_home/fsj/privacy/index_en.htm)

**THE WORKING PARTY ON THE PROTECTION OF INDIVIDUALS WITH REGARD TO THE  
PROCESSING OF PERSONAL DATA**

set up by Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995<sup>1</sup>,

having regard to Articles 29 and 30 paragraphs 1 (a) and 3 of that Directive, and Article 15 paragraph 3 of Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002

having regard to Article 255 of the EC Treaty and to Regulation (EC) no 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents

having regard to its Rules of Procedure

**HAS ADOPTED THE PRESENT DOCUMENT:**

**Revised and Updated Policy to promote transparency and communication of the activities of the Working Party established by Article 29 of Directive 95/46/EC.**

**INTRODUCTION**

- The Working Party is convinced that a good transparency and communication policy represents an opportunity for it to both raise its profile and increase the acceptability, quality and knowledge of its work. The Working Party has therefore reflected on how best to improve existing practices and ensure due consideration for all the different interests at stake. For this reason this document firstly describes the current situation (point I) and, building on the progress made to date, sets out a series of measures that will further enhance the current policy (point II).
- This document is intended to serve as a guideline for the members of the Working Party and the Secretariat as regards both the practical measures to be implemented and its communication policy in relation to third parties. In this context, it should be pointed out that the Working Party is an independent advisory body as per Article 29 of Directive 95/46/EC. Its Rules of Procedure clearly set out the public nature of its opinions, recommendations and any other documents it may adopt. While minutes and draft papers are restricted documents, they may be disclosed publicly if “the Working Party decides otherwise”.

**I. THE CURRENT SITUATION**

- At present, various measures are deployed to ensure the transparency of the Working Party's activities.

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<sup>1</sup> Official Journal no. L 281 of 23/11/1995, p. 31, available at:  
[http://europa.eu.int/comm/internal\\_market/en/media/dataprot/index.htm](http://europa.eu.int/comm/internal_market/en/media/dataprot/index.htm)

- For example, although the Working Party's internal rules of procedure stipulate in Article 14 only that: "Opinions and recommendations shall be communicated to the Commission and to the Committee referred to in Article 31 of Directive 95/46/EC"<sup>2</sup>, in practice, after their adoption, the Working Party's documents are also made available on the Commission website. This publication generally takes place in two stages. Soon after their adoption<sup>3</sup>, documents are published in English. The other language versions are published once the Secretariat receives the translations. The website<sup>4</sup> provides a reference number, the date of adoption and the document title<sup>5</sup> for all documents published. Documents are classified by year.
- Moreover, in accordance with Article 30, paragraph 6 of Directive 95/46/EC, Article 15 of the internal rules of procedure of the Working Party requires the publication of the annual report on the situation regarding the protection of natural persons with regard to the processing of personal data in the Community and in third countries, which is communicated to the Commission, the European Parliament and the Council. This report is made public.
- In 2003, the Working Party carried out a major review of its policy on transparency. It undertook in document WP70 to take specific measures to improve its performance. As part of the present review, the Working Party carried out an assessment of progress made on the 2003 commitments.
- Significant progress has been made in implementing the commitments:
  - The website has been developed by the Secretariat to give a comprehensive view of the activities of the Working Party, including the texts of all significant Opinions and other documents approved
  - A more recent initiative by the Secretariat has been the inclusion on the website of a classified index of policy documents approved both by the Working Party and by supervisory authorities (DPAs)
  - The timescale for the publication of the Annual Report has been improved (though not yet meeting the target of publication in the first half of the following year)
  - The Working Party's activities have been guided by a published work-programme
  - 3 public consultations and one public hearing have been arranged on issues of major significance
  - There has been a significant effort to engage with the news media, through press releases, interviews by the Chair etc
  - Efforts have been made by DPAs to publicise the activities of the WP

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<sup>2</sup> However, Article 11 of the Working Party's internal rules of procedure provides that: "*Without prejudice to Article 214 of the EC Treaty, the Members of the Working Party, the experts and the observers must show discretion with regard to the Working Party's discussions. The minutes and all of the Working Party's draft documents are confidential unless the Working Party decides otherwise. The opinions, recommendations and any other document adopted by the Working Party are not confidential unless the Working Party decides otherwise*".

<sup>3</sup> The publication time may be extended principally when work is required to finalise the documents.

<sup>4</sup> [http://ec.europa.eu/justice\\_home/fsj/privacy/workinggroup/index\\_en.htm](http://ec.europa.eu/justice_home/fsj/privacy/workinggroup/index_en.htm)

<sup>5</sup> Regulation 1049/2001 also provides for the obligation to establish registers that can be consulted by the public.

- Other activities that have contributed to better knowledge of the Working Party's activities and of the European approach to data protection have included:
  - Participation by the Chair, Members and the Secretariat in various public activities within the EEA, in the accession States and in Third Countries
  - Participation in the Council Working Group on Data Protection
  - Increased engagement and cooperation with the European Parliament
  - The increased level of activity of the EDPS

## **II. IMPROVING EXISTING PRACTICES**

The Working Party is determined to further improve the transparency of its activities and enhance its communication policy. In doing so, it aims to contribute to a better understanding of the EU's data protection regime and to further improve the harmonised application of the Data Protection Directives. It also wishes to contribute to the efforts being made by the EU institutions and by national authorities for greater transparency in public administration and for enhanced outreach. Various measures are planned:

### **I. Website**

- The Working Party and the Secretariat will continue to use the website to make the work of the Working Party easily accessible to the general public. The Secretariat and supervisory authorities will ensure that documents approved by the Working Party and important documents from supervisory authorities continue to be included in the indexed "Policy Documents" section of the website. In addition, supervisory authorities will review the scope for further publicising the activities of the Working Party on their websites and otherwise.
- The Website will include links to supervisory authorities as well as to other forums on data protection such us the Spring and International Conferences

### **II. Official Communications to European Institutions and Bodies**

- The Working Party will continue to comply with the requirement set out in Article 14 of its Rules of Procedure, by officially sending opinions, recommendations and other documents through the Secretariat to the Commission and Article 31 Committee; it will also, where appropriate, send written communications to the Council and to the European Parliament.
- The Working Party will strive to organise a public presentation of its Annual Report, in particular by seeking the involvement of the European Parliament. This could also serve to stimulate discussion and feedback from MEPs.
- The Working Party will consider the possibility of developing, jointly with the relevant Community institutions, a methodology to ensure that it is kept informed about the follow-up to its opinions and requests as well as to participate in the data protection impact assessment with regard to any measures the said institutions plan to introduce into the Community's legal system.

### **III. Improved Transparency with Interest Groups and the Public**

- Approximately 2 weeks before each meeting, the Working Party will publish on its website an outline of the agenda for that meeting.

- The Working Party will decide, at the end of each meeting, what documents considered at the meeting might usefully be published and disseminated and in what format. It will also decide if it would be useful to engage in a consultation process with interested parties before finalising its position on selected issues and how such consultation should be carried out.
- In the case of documents selected for a formal consultation process, particular attention will be given to ensuring an inclusive approach, involving all the different interests at stake, while taking into account the limited available means of the Secretariat.
- Each supervisory authority will introduce a link on its website with the page of the Commission site advertising the consultation (on the basis of information provided by the Secretariat).
- The Working Party will include in the press release issued after each meeting (see below) a summary of the main conclusions reached at the meeting.

#### **IV. Publication of the Working Party's work programme**

- The annual work programme drawn up at the beginning of the year will be published on the basis of the themes to be dealt with, in accordance with the priorities established by the Working Party. It will be updated if there are any major amendments.

#### **V. Publication of the activity report on the Working Party's activities**

- The Working Party will continue to aim to publish the activity report in the first half of the year following the year to which it relates. The supervisory authorities will provide their contributions in accordance with an agreed time-scale in order to facilitate this.

#### **VI. Media Outreach**

- After each meeting of the Working Party, the Chair will issue a press release summarising the main issues considered at the meeting. The press release will include the (un-annotated) agenda, as approved at the start of the meeting, and the main conclusions reached at the meeting.
- The Working Party will take the initiative, whenever it finds necessary, to issue a press release on specific issues.
- The supervisory authorities will step up their communication policy with the press as regards the Working Party's activities.

#### **VII. Hearings**

- The Working Party will decide on a case by case basis whether to hold specially targeted hearings depending on the subjects dealt with.

#### **VIII. Increased Cooperation with European Institutions**

- The Working Party will increase its interaction with the European Parliament. It will ensure that the relevant Committees of the Parliament are kept informed of the positions being developed by the Working Party on proposals under consideration by the Parliament. Through its Chair, it will actively participate in hearings organised by the Parliament on issues relevant to its mandate.
- The Working Party will also increase its collaboration with the Council of the European Union. It will do it through attendance at the Council Working Group on Data Protection and the organisation of meetings with the Presidency representatives in order to discuss initiatives with data protection implications.
- Mindful of the fundamental role of the Council of Europe in promoting and defending human rights, including the right to privacy and protection of personal data, the Working Party and its members will seek opportunities for further co-operation with the work of the Council, such as co-ordinated promotional activities on the occasion of the annual Data Protection Day.

## **IX. Activities in the International Field**

- The Working Party will continue to respond to invitations to present the European perspective on data protection at appropriate international gatherings. The Working Party will also seek to proactively identify sectors and topics in which its contribution might be considered to be helpful and/or appropriate.
- The Working Party will endeavour to identify ways and means to co-ordinate its activities with those carried out in other international fora dealing with data protection and privacy issues (e.g. OECD, APEC, Council of Europe, Spring Conference of European DP Commissioners) so as to prevent duplication and develop common policies – in line with the conclusions reached at the London International Conference of data protection commissioners of September 2006.

Done at Brussels, 15 February 2007  
 For the Working Party  
*The Chairman*  
 Peter SCHAAR