

Press Release
Communiqué de presse
Mitteilung für die Presse

Brussels, June 26, 2008

ARTICLE 29 DATA PROTECTION WORKING PARTY

The Article 29 Working Party held its 66th plenary session in Brussels on June 24 & 25, 2008.

A strong signal for companies : the revival of Binding Corporate Rules

In a context of globalisation & international data transfers, the Article 29 Working Party is aware that the Binding Corporate Rules need to be promoted and their approval process improved.

It is to be reminded that Binding Corporate Rules (or BCRs) are internal rules applicable to all group entities and contain key principles legally covering the transfer of personal data coming from the European Union. Today, for the transfer of personal data outside of the European Union, BCRs are an alternative to the Safe Harbor (for the transfer to the United States) or to the contractual clauses adopted by the European Commission

While working on BCRs applications, European Data Protection Authorities found out that international companies interested in BCRs do not have an exact understanding of the structure of BCRs expected by them, and that companies are concerned by the length of the approval process of BCRs. Moreover, most Data Protection Authorities face a lack of staff dedicated to BCRs.

The Chairman of the Article 29 Working Party, Mr Türk, has granted this topic a high priority in order to develop the solution provided by BCR for international transfer of data. Consequently, he hosted a seminar in Paris on June 10th which gathered most of the European Data Protection Authorities in order to share their experiences. The European Data Protection Authorities concluded that there was no alternative to BCRs which constitute the best solution for global companies in order to legally cover their international data transfers around the globe within their group.

Furthermore, to improve the communication on Binding Corporate Rules and allow companies concerned by international data transfers who wish to get information on this solution, the Article 29 Working Party has produced important efforts to facilitate the drafting by the industry of BCR applications. A toolbox has been developed and gathers all information on BCRs. This toolbox designed both for companies and for Data Protection Authorities is composed of a framework of BCRs, a FAQ and a checklist.

The checklist gathers all elements and conditions required in WP 74 & 108 and explains the principles one by one. The checklist defines what must be found in BCRs, and what must be presented to DPAs in the BCR application

The framework is designed to give a idea to companies of the structure of BCRs.

The Frequently Asked Questions (FAQ) provides operational answers to concrete questions raised by companies.

Documents adopted will be available on line soon.

Lastly, the Article 29 Working Party is currently working on the improvement of its coordination procedure for BCRs in order to speed up the approval procedure.

These considerable efforts & the priority given to this topic by the Article 29 Working Party constitute a very positive signal towards global companies.

E-privacy

On 13 November 2007, the European Commission adopted a Proposal for a Directive amending, among others, Directive 2002/58/EC concerning the processing of personal data and the protection of privacy in the electronic communications sector.

The Article 29 Working Party adopted an opinion regarding the review of the E-privacy Directive. In its opinion (WP 150), the Article 29 Working Party fully supports the proposed strengthening of Article 4 "*Security*" by requiring providers of publicly available communication services to notify security breaches, and underlines the importance of informing all persons concerned when their personal data have been compromised or are at risk of being compromised.

However, the Working Party 29 does not consider that it fully addresses certain issues ; in particular the need to include providers of information society services within the scope of the obligation to notify security breaches. Furthermore, the Working Party considers that the scope of recipients of the security breach notification should be made wider, so as to include all persons concerned rather than only the "*subscribers*".

Furthermore, Some references to the NRA (National Regulatory Authority) in the European Commission's proposal seem to refer to the national telecommunications regulatory authority, while some others seem to refer to the data protection authority. The Article 29 Working Party suggests introducing wording similar to Article 3(5) of the Framework Directive 2002/21/EC, so as to ensure that the national regulatory authorities and national data protection authorities co-operate with each other effectively.

Lastly, the Working Party 29 advocates the application of the principle of data minimisation and the deployment of Privacy Enhancing Technologies by data controllers.

On June 24th, Mr. Lambrinidis, Vice-Chairman of the LIBE Committee presented to the Working Party the developments of its Committee on this topic and thanked the Working Party for the value of its opinion.

PNR

The Working Party adopted new model information notices to make easier the providing of information for organisations and to make sure information notices to be provided to passengers is consistent across the European Union.

Annual report

The Article 29 Working Party adopted its 11th annual report on Data Protection for the year 2007.

In this report, the Data Protection Authorities members or observers of the Article 29 Working Party also present the latest developments in their country in terms of legislation, major case-law, and major specific issues. A part is dedicated to developments which occurred at EU level.

It will be soon available on line.

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