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Brussels, 3 October 2011

## **ARTICLE 29 DATA PROTECTION WORKING PARTY**

### **Data Protection Authorities not convinced on necessity and proportionality of the proposal for European Terrorist Finance Tracking System**

The European Data Protection Authorities, united in the Article 29 Working Party, have voiced their concerns in a letter addressed to Commissioner Malmström (Home Affairs) about a plan to set up a Terrorist Finance Tracking System (TFTS). The letter, adopted on 29 September 2011, is in response to the Communication put forward by the Commissioner at the end of July. The TFTS is intended to be a European equivalent of the current United States' Terrorist Finance Tracking Program (US TFTP), a program designed after the attacks of 11 September 2001 to identify ways in which terrorists finance their activities. The program allows certain law enforcement actors to access information about the international bank transactions carried out within the European Union which is stored in a large database and from which leads regarding the financing of possible terrorist activities can be retrieved by searching the system.

The Commission Communication does not yet contain a detailed proposal for a TFTS, but reflects on possible elements such a system could contain. In the coming months, the Commission intends to finalise an impact assessment on the different options that are under discussion, after which a concrete proposal may be put forward. However, given their grave concerns regarding the necessity and proportionality of all options under discussion, the Data Protection Authorities felt compelled to respond to the Communication as well.

As yet, there is no convincing and unequivocal evidence either the necessity or proportionality of the TFTS. The letter therefore calls upon the Commission to present such evidence, if and when a final proposal is presented. The TFTS should be demonstrably necessary to fight terrorist activities, as is the intended purpose of the system. The Data Protection Authorities make clear that the mere added value of the information to be gained from the system is not sufficient.

In its letter, the Article 29 Working Party furthermore reflects on related issues, including the intended transfer of bulk data, the types of data being processed and shared, expected retention periods as well as the rights of data subjects. On the latter, the Authorities request that a right of access is a true right for individuals and that citizens may authorize specific searches in order to identify their own personal information, even when that information had previously not been extracted from the database.

The Article 29 Working Party intends to follow the discussion on the TFTS closely and make further contributions on the issue as and when appropriate.

[http://ec.europa.eu/justice/data-protection/article-29/index\\_en.htm](http://ec.europa.eu/justice/data-protection/article-29/index_en.htm)