

Brussels, 12 June 2014

## **ARTICLE 29 DATA PROTECTION WORKING PARTY 96th PLENARY MEETING**

**The European data protection authorities, assembled in the Article 29 Working Party (WP29) at its Plenary meeting of 3 and 4 June 2014 decided to react to two rulings of the Court of Justice of the European Union (CJEU): the 'Costeja' ruling concerning Google and the ruling that invalidates the Data Retention Directive. They also decided to share their preliminary thoughts on the Obama administration's report on big data. Moreover, the authorities replied to consultations on a draft Code of Conduct for Cloud Computing and on a "Do Not Track" standard for websites. Furthermore, in the context of the EU data protection reform, the authorities adopted a letter to the EU Institutions on the dropped reference to binding corporate rules for processors and a statement on the role of a risk-based approach in data protection legal frameworks.**

### **CJUE 'Costeja' ruling**

Following the CJUE's ruling of 13 May 2014 in the dispute opposing the Spanish data protection authority (AEPD) and Google, the WP29 communicates its first reactions at this stage. See separate press release on this.

### **Data retention**

The WP29 discussed the CJEU's recent invalidation on 8 April 2014 of the Data Retention Directive. This judgment obviously has consequences on the EU Member States' data retention laws, which need to be evaluated. The WP29 will issue a statement in the coming weeks.

### **Big data**

Following the publication last May by his office of a report entitled "Big data: seizing opportunities, preserving values", the WP29 has decided to send a letter to John Podesta, Counselor to the US President, to communicate its preliminary thoughts on the policy recommendations contained in the report that concern the privacy issues raised by the development of big data. See separate press release on this.

### **Cloud computing**

The WP29 delivered some comments to the Cloud Select Industry Group (C-SIG) on its draft Code of Conduct for Cloud Computing, in order to allow the C-SIG to send a revised draft Code before a proper opinion is released.

### **"Do Not Track" (DNT)**

In reply to a public call for comments from the World Wide Web Consortium (W3C) on its document specifying how websites should respond to a "Do Not Track" expression by a user, the WP29 encourages the definition of an effective DNT standard as a mechanism for the users to express consent (or opposition) through their browser settings, in line with the ePrivacy Directive. The WP29 also identifies several improvements that could be brought to the draft.

### **Binding corporate rules for processors (BCR-P)**

In a letter to the EU Institutions, the WP29 regrets that the reference to BCR-P, which was present in the European Commission proposal for a Data Protection Regulation of the EU, has been dropped in the European Parliament's amended text adopted on 12 March

2014. In the perspective of their negotiations, the WP29 calls on the European Parliament, the EU Council and the European Commission to maintain the reference to BRC-P, currently the best protection in transfers of personal data to processors established outside the EU.

### **Risk-based approach**

In a statement adopted just before the 96<sup>th</sup> Plenary, the WP29 aims to clarify that, while the risk-based approach is welcome as a scalable and proportionate approach to compliance in respect of accountability obligations, it is not an alternative to well-established principles and it should not lead to weakening the rights of individuals.

### **Modernisation of the Convention 108**

The European data protection authorities assembled in the WP29 welcome the adoption by the European Conference of Data Protection Authorities (Strasbourg, 5 June 2014) of a [resolution](#) on the revision of the Council of Europe Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (Convention 108). The resolution calls on Council of Europe member states and the States Parties to Convention 108 to preserve and, where possible, increase the current level of protection afforded by the Convention.

**Other issues on the agenda** include: the Transatlantic Trade and Investment Partnership (TTIP); Tracking through Device Fingerprinting; the Internet of Things; international enforcement cooperation; Safe Harbor; improvement of transparency on the Commission's website as regards BCRs; the Council of Europe Convention on Cybercrime; Smart Borders; the internal consultation on possible improvements for the WP29's methods and organisation.

### **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 Article 29 Working Party is competent to examine any question covering the application of 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/data-protection/article-29/index\\_en.htm](http://ec.europa.eu/justice/data-protection/article-29/index_en.htm)