

## EU

### Article 29 Working Party Adopts Guidelines on Data Portability, Data Protection Officers and Lead Authorities

In preparation for the General Data Protection Regulation (GDPR) coming into force in May 2018, the Article 29 Working Party (WP29) has adopted final guidelines on the right to [data portability](#), [data protection officers](#) (DPOs) and [lead supervisory authorities](#) (LSAs). The guidelines have been amended following comments received from stakeholders on the initial drafts during the consultation process.

The WP29's revised data portability guidance clarifies that, when answering data portability requests, data controllers are not responsible for the processing handled by the data subject or by another company receiving personal data. The WP29 has also made it clear that data processors that process data that is subject to a data portability request are obliged to cooperate with data controllers in order to comply with the request.

The DPO guidelines have been amended to extend responsibility for all data processing activities to DPOs appointed by organisations on a voluntary basis. The WP29 has also recommended that DPOs be located within the EU to ensure that they are accessible.

The revised guidance on LSAs states that in situations where a data controller chooses an LSA under the one-stop shop principle, the LSA in question may choose to "rebut the controller's analysis based on an objective examination of the relevant facts, requesting further information where required". The WP29 has also indicated that that the "one-stop shop" system will be available to data processors where they have an establishment in multiple EU member states.

### Article 29 Working Party Consults on Data Protection Impact Assessment

The WP29 has released its [Data Protection Impact Assessment](#) (DPIA) guidelines for consultation. The guidance provides businesses and other organisations with an indication of the types of situations in which they will be required to conduct a DPIA under the GDPR. Such situations may include the use of a camera system to monitor driving behaviour on motorways or a company monitoring its employees' internet activity and work stations. By contrast, the WP29 suggests that a DPIA will not necessarily be required in some situations, such as where an online magazine uses a mailing list to send a generic daily digest to subscribers or when an e-commerce website displays adverts for vintage cars involving limited profiling based on past purchase behaviour on its website. The consultation will remain open until 23 May 2017, after which the WP29 will finalise its DPIA guidance.

### Article 29 Working Party Adopts Opinion on Draft ePrivacy Regulation

Following its recent plenary meeting, the WP29 has adopted an [opinion on the draft ePrivacy Regulation](#) (ePR), which was published in January 2017. The WP29 welcomed measures in the ePR designed to equalise the treatment of Over-The-Top providers with that of telecom operators in relation to maintaining the confidentiality of communications. However, the WP29 is critical of measures relating to Wi-Fi tracking, analysis of content and metadata, tracking walls and privacy by default in relation to terminal equipment and software, stating that in this respect, the ePR would lower the level of protection relative to that provided under the GDPR. In addition, the WP29 has suggested a number of areas for clarification, such as the scope of the ePR in relation to the persons and member states to which it relates, the issue of unsolicited communications and on the concept and application of consent.

## France

### CNIL Publishes Its Annual Report

The French Data Protection Authority (CNIL) has recently [published its annual report](#). It states that it has:

- Received 7,703 complaints, 33% of which concern the dissemination of personal data on the internet; 410 of these complaints follow refusals of requests for de-referencing from search engines
- Performed 430 checks, including 100 online checks and 94 checks to ensure the compliance of CCTV devices; 60% of these checks are carried out on the initiative of the CNIL, especially in view of current events, 20% result from its annual program, 15% are part of the investigation of complaints
- Issued 82 formal notices, including four that were released to the public
- Issued nine warnings, including four that were released to the public

In 2017, the top priority for the CNIL is to prepare for the transition to the GDPR. Its national action plan focuses mainly on (i) providing support for professionals, (ii) transforming compliance tools in order to comply with European standards and (iii) implementing the requested change within the institution of the CNIL.

The CNIL also announced that it will particularly work on the themes of confidentiality of health data processed by insurance companies, intelligence files and connected televisions.

## UK

### DCMS Consults on Derogations From GDPR

The Department for Cultures, Media and Sport (DCMS) has [called for views](#) from stakeholders in relation to the derogations which the UK government may exercise in relation to the GDPR. While the GDPR is directly applicable, DCMS is able to derogate from a number of provisions; notably, the UK government may derogate from certain articles relating to supervisory authorities, sanctions, data protection officers and third country transfers. DCMS has not expressed its own views on how, if at all, it will seek to derogate from parts of the GDPR. Stakeholders have until 10 May 2017 to provide responses to DCMS.

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