



**14/EN
WP 221**

**Statement on Statement of the WP29 on the impact of the development of
big data on the protection of individuals with regard to the processing of
their personal data in the EU**

Adopted on 16 September 2014

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 (Fundamental Rights and Union Citizenship) of the European Commission, Directorate General Justice, B-1049 Brussels, Belgium, Office No MO-59 02/013.

Website: http://ec.europa.eu/justice/data-protection/index_en.htm

The data protection authorities of the European Union, represented in the Article 29 Working Party (WP29), consider that the development of big data technologies can have important consequences on the protection of individuals with regard to the processing of their personal data in the EU.

The Working Party will continue to follow the development of this trend closely. For now, it has decided to publish the following statement to communicate a number of key messages on this issue.

- Many individual and collective benefits are expected from the development of big data, despite the fact that the real value of big data still remains to be proven. The Working Party would naturally support genuine efforts at EU or national levels which aim to make these benefits real for individuals in the EU, whether individually or collectively.
- As an important part of big data operations relies on the extensive processing of the personal data of individuals in the EU, it also raises important social, legal and ethical questions, among which concerns with regard to the privacy and data protection rights of these individuals. The benefits to be derived from big data analysis can therefore be reached only under the condition that the corresponding privacy expectations of users are appropriately met and their data protection rights are respected.
- The EU legal framework for data protection is applicable to the processing of personal data in big data operations. Directive 95/46/EC and other relevant EU legal instruments are part of this framework. They ensure a high level of protection of individuals, namely by providing them with specific rights which cannot be waived.
- Some stakeholders assert that the application of some data protection principles and obligations under EU law should be substantially reviewed to enable promising forthcoming developments in big data operations to take place. The application of the principles of purpose limitation and data minimisation are presented as core concerns in this respect, as they require that data controllers collect personal data only for specified, explicit and legitimate purposes, and do not further process such data in a way incompatible with those purposes. They also require that personal data must be adequate, relevant and not excessive in relation to the purposes for which they are collected and/or further processed. In this regard, some voices argue that the focus should be only on the use of personal data, linking this to the level of risk of harm to individuals.
- The Working Party acknowledges that the challenges of big data might require innovative thinking on how some of these and other key data protection principles are applied in practice. However, at this stage, it has no reason to believe that the EU data protection principles, as they are currently enshrined in Directive 95/46/EC, are no longer valid and appropriate for the development of big data, subject to further improvements to make them more effective in practice. It also needs to be clear that the rules and principles are applicable to all processing operations, starting with collection in order to ensure a high level of data protection.
- In fact, the Working Party strongly believes that complying with this framework is a key element in creating and keeping the trust which any stakeholder needs in order to develop a stable business model that is based on the processing of such data. It also believes that compliance with this framework and investment in privacy-friendly solutions is essential to ensure fair and effective competition between economic players on the relevant markets. In

particular, upholding the purpose limitation principle is essential to ensure that companies which have built monopolies or dominant positions before the development of big data technologies hold no undue advantage over newcomers to these markets.

- "Big data" is a broad term that covers a great number of data processing operations, some of which are already well-identified, while others are still unclear and many more are expected to be developed in the near future.

- In addition, big data processing operations do not always involve personal data. Nevertheless, the retention and analysis of huge amounts of personal data in big data environments require particular attention and care. Patterns relating to specific individuals may be identified, also by means of the increased availability of computer processing power and data mining capabilities.

- A number of developments that are qualified today as big data – such as the development of comprehensive information systems in the delivery of health services or in the centralisation of law enforcement files, as well as behavioural advertising – have long been implemented in many EU Member States. These have already been addressed within the framework of the existing data protection rules, whether at EU or national levels.

- On the basis of these shared experiences, the Working Party recently released a number of policy documents which are relevant to the analysis of privacy concerns raised with regard to big data – e.g. Opinion 03/2013 on Purpose limitation, Opinion 05/2014 on Anonymisation techniques, Opinion 6/2014 on Legitimate interests or Opinion 01/2014 on the Application of necessity and proportionality concepts and data protection within the law enforcement sector.

- When necessary, the Working Party will initiate international cooperation with other relevant regulators in order to ensure the EU data protection rules are best applied in respect of the development of big data.

- The Working Party is further aware that international competition on big data means that different national, regional and international regulatory data protection and privacy frameworks may apply simultaneously at global level, which can entail important challenges in terms of compliance. In this light, the Working Party believes that increased cooperation is needed between data protection authorities and other competent authorities around the world on these issues. This cooperation is necessary to provide unified guidance and operational answers on the implementation of data protection rules to global players, as well as to implement joint enforcement of these rules, wherever possible. It is also necessary to reassure individuals that the protection of their data protection rights and interests is considered as fundamental by all stakeholders.

- Promoting cooperation between international regulators on big data needs to be firmly based on the different applicable legal frameworks. In Europe, the rights granted to the data subject by EU law (including transparency, rights of access, rectification, erasure, objection, right to be forgotten) result from a fundamental right. They are therefore generally applicable and only subject to limited exceptions provided by law.