

European Data Protection Commissioners' Conference Brussels, 5 April 2011

Resolution on the need for a comprehensive data protection framework

The European Data Protection Authorities previously adopted a declaration¹ in 2009, at their Spring Conference in Edinburgh stating their intention to contribute actively to the debate and to promote the need for high standards of data protection in all areas of life, including developing technologies, the online world and law enforcement activity.

This declaration of leadership was confirmed at the Spring Conference organised in Prague in 2010². Data Protection Commissioners notably insisted on the need to maintain an effective and consistent implementation of fundamental rights in a global environment.

The Spring Conference in Brussels welcomes and strongly supports the fact that the European Commission has now taken a first concrete step towards a comprehensive approach to data protection in the European Union, by adopting Communication 2010 (609) on 4 November 2010.

Having in mind the intention of the Commission to adopt in the course of 2011 a proposal for a new legal framework, the Conference:

- Recalls the main challenges to be addressed in the new framework, which include
 - o the consequences of globalisation and transborder flows of personal data;
 - o the development of technology especially in the on-line world;
 - o the importance of effective protection in the areas of police and justice, also in light of the trend to re-use on a systematic basis personal data of the private sector for law enforcement purposes.
- Stresses that Article 8 paragraph 1 of the Charter of Fundamental Rights and Article 16 of the Treaty on the Functioning of the European Union confirm that "*everyone has the right to the protection of personal data concerning them*", irrespective of the person or the situation.
- Notes that, more generally, the new legal context of the Lisbon Treaty and the Charter explicitly recognise data protection as a fundamental right, and give a binding force to this right. The Lisbon Treaty abolishes the pillar structure which was the cause of a fragmented data protection framework at EU level.
- Welcomes the fact that the Commission envisages a "comprehensive approach" to the new framework, including the law enforcement sector.

¹ Declaration on leadership and the future of data protection in Europe adopted by the European Privacy and Data Protection Commissioners' Conference on 23-24 April 2009 in Edinburgh.

² Resolution on future development of data protection and privacy adopted by the European Privacy and Data Protection Commissioners' Conference on 30 April 2010 in Prague.

- Recognises that specific additional rules might be needed for specific sectors - including law enforcement, as set forth in Declaration 21 appended to the Treaty, and other specific areas, as has already been the case for the e-Privacy Directive - but insists on the fact that those sector-specific additional rules should in no circumstances lower the level of protection, and should only allow for legitimate restrictions in accordance with general data protection principles.

The Conference insists on the need for a consistent and comprehensive approach taking into account not only the EU framework, but also the international context and the need for global standards for personal data protection. It is therefore especially interested in:

- The work currently taking place in the context of the Council of Europe and the OECD, which are both undertaking valuable initiatives to review their current frameworks and to identify where modernisation is needed.
- The initiative of the Council of Europe to encourage non Parties to Convention 108 and its additional Protocol – member or not of the Council – to accede to these instruments.
- Other initiatives for the development of international standards³ to be recognised worldwide.

The Conference considers that efforts to modernise and reinforce the different legal frameworks should develop in synergy and calls on the main stakeholders in these projects to coordinate their activities.

The Data Protection Commissioners consider that all these developments offer tremendous opportunities for a real improvement of the data protection framework, offering effective protection to all data subjects under all circumstances, not only now but also in a more distant future.

The time has come to be ambitious and join forces for more effective data protection. The Data Protection Commissioners are available to provide all possible contributions to make such a strong and comprehensive data protection regime a reality.

³ See in particular:

- International Standards on the Protection of Personal data and privacy, adopted on 5 November 2009 in Madrid at the 31st International Conference of Data Protection and Privacy Commissioners;
- Resolution calling for the organisation of an intergovernmental conference with a view to developing a binding international instrument on privacy and the protection of personal data, adopted on 29 October 2010 in Jerusalem at the 32nd International Conference of Data Protection and Privacy Commissioners.