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JUST-ARTICLE29WP-SEC@ec.europa.eu
presidenceg29@cnil.fr

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EUROPEAN BANKING FEDERATION'S COMMENTS TO THE WORKING PARTY 29 GUIDELINES ON DATA PROTECTION OFFICERS

The EBF welcomes the possibility given to provide comments on the Guidelines prepared by the Article 29 Data Protection working party (Article 29 WP) on the Data Protection Officers (DPOs).

'Easily accessible from each establishment' (2.3)

- As stated in the guidelines, "Article 37(2) allows a group of undertakings to designate a single DPO provided that he or she is 'easily accessible from each establishment'. The notion of accessibility refers to the tasks of the DPO as a contact point with respect to data subjects, the supervisory authority but also internally within the organisation, considering that one of the tasks of the DPO is 'to inform and advise the controller and the processor and the employees who carry out processing of their obligations pursuant to this Regulation'".

It should be specified in the guidelines that the designation of a unique DPO for a group of undertakings present in several countries, should depend of the size of the company, its structure and its organisation and it is up to the group of undertaking or of the DPO to define the team around him/her that is able to fulfil the regulatory requirements in each of these countries. Each company must be able to choose the organisation that is the most adapted to its structure.

European Banking Federation aisbl

Brussels / Avenue des Arts 56, 1000 Brussels, Belgium / +32 2 508 3711 / info@ebf.eu
Frankfurt / Weißfrauenstraße 12-16, 60311 Frankfurt, Germany
EU Transparency Register / ID number: 4722660838-23


www.ebf.eu

The banks are already very well organised in protecting data (positions of "risk", "compliance", "legal" etc.). They must therefore be allowed to have a complete freedom in designating a DPO according to the organisation already in place in each lending institution, providing the conditions laid down by the text comply with the necessary requirements (notably the absence of any instruction concerning the exercise of his/her mission, independence, absence of conflicts of interest and reporting to the highest level of the management).

- The guidelines mention that *"He or she must be in a position to efficiently communicate with data subjects and cooperate with the supervisory authorities concerned. This also means that this communication must take place in the language or languages used by the supervisory authorities and the data subjects concerned"*.

Despite that the "frequently asked questions" document mentions that *"the personal availability of a DPO (whether physically on the same premises as employees, via a hotline or other secure means of communication) is essential to ensure that data subjects will be able to contact the DPO"*, it should be specified in the guidelines that, as soon as the DPO is assisted by a dedicated team able to communicate in the language or languages used by the supervisory authorities and the data subjects concerned or a simple translation system can be organised, there is no obligation for the DPO to personally communicate with the local authority or/and the data subjects concerned in their language as long as a person in his/her team. The dedicated team may or may not be locally present.

General comment

As a general comment, we believe that further consideration should be given to the principle of proportionality as the proposed guidelines could potentially be very burdensome especially for the smaller banks.

About EBF

The European Banking Federation is the voice of the European banking sector, uniting 32 national banking associations in Europe that together represent some 4,500 banks - large and small, wholesale and retail, local and international - employing about 2.1 million people. EBF members represent banks that make available loans to the European economy in excess of €20 trillion and that securely handle more than 300 million payment transactions per day. Launched in 1960, the EBF is committed to creating a single market for financial services in the European Union and to supporting policies that foster economic growth.

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For more information contact:

Noémie Papp

Senior adviser Digital & Retail
n.papp@ebf.eu
+32 2 508 37 69