

## ARTICLE 29 Data Protection Working Party



Brussels, 23 March 2015

Mr Rihards Kozlovskis  
Minister for the Interior  
The Latvian Presidency of the Council of  
the EU  
Chair of the JAI Council  
By E-mail: [permrep.eu@mfa.gov.lv](mailto:permrep.eu@mfa.gov.lv)

Subject: Renewal of the TFTP Agreement between EU and US

Dear Mr Kozlovskis,

The agreement between the European Union and the United States of America regarding the transfer of financial messaging data for the purpose of Terrorist Finance Tracking Program (“TFTP”) entered into force on 1 August 2010. The agreement has an initial duration of five years, but shall be renewed automatically for one year at a time as long as the contracting partners do not indicate they wish to terminate the agreement at least six months in advance. The Working Party is not aware such notification has been issued.

When the Council approved the agreement in its Council Decision 2010/412/EU, it obligated itself by providing that the “Union shall consider whether to renew the Agreement”, if no EU TFTP equivalent system has been set up within five years (Art. 2). Until now, such an EU equivalent has not been set up.

The Working Party is therefore interested to learn about the process the Council has chosen in order to consider whether to renew the agreement and to assess if an interest of the Member States and the EU remains valid in the light of the experience gained so far. The Working Party reminds, if a positive attitude is developed towards such renewal, to reflect in the appropriate way the necessity and proportionality of the data collection and use. To this end, the Working Party refers to the expertise gained in taking part in the joint reviews of the Agreement and in particular makes reference to the activity performed by the Joint Supervisory Body of Europol (JSB). As the authority supervising the processing of personal data by Europol, the JSB has inspected Europol with regard to its activities carried out under the TFTP Agreement. The Working Party specifically refers to the public reports of 14 March 2012 indicating that, given the nature of the TFTP, it might not be possible to fulfil all

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 for Justice and Consumers, B-1049 Brussels, Belgium, Office No MO59 02/34

Website: [http://ec.europa.eu/justice\\_home/fsj/privacy/index\\_en.htm](http://ec.europa.eu/justice_home/fsj/privacy/index_en.htm)

intended safeguards of Article 4. It also refers to its assessment of 18 March 2013, specifically to the issues deserving further consideration referred to in the final part of the report. The reports are available on the JSB website (<http://europoljsb.consilium.europa.eu/about.aspx>).

As always, the Working Party wishes to express its intention to engage constructively in the discussion of the renewal of the TFTP Agreement and its compliance with the European Charter of Fundamental Rights and the European data protection framework.

Yours sincerely,

On behalf of the Article 29 Working Party,

Isabelle FALQUE-PIERROTIN  
Chairwoman

CC: Ms Věra Jourová - Commissioner for Justice, Consumers and Gender Equality

CC: Mr Dimitris Avramopoulos - Commissioner for Migration, Home Affairs and Citizenship

CC: Mr Claude Moraes - Chairman of the European Parliament Committee on Civil Liberties, Justice and Home Affairs