

Secretariat of the Article 29 Working Party
DG Just

Prot. No. 094/LH
Brussels, 5th April 2018

Dear Madam,
Dear Sir,

Re: Article 30.5 GDPR

UEAPME, the European Association of Crafts and SMEs, fully support the fundamental right of EU citizens for the protection of personal data. The General Data Protection Regulation (GDPR) will apply as from 25th May 2018 as the core framework for data protection and the free flow of data throughout the EU. It is nonetheless crucial that the application of the GDPR comes with clear guidance for all organisations, especially the small and medium-sized enterprises which represent 99,8% of all business in the EU.

One of the current issues concerns article 30 of the Regulation: the Records of processing activities. The interpretation of this article and its exemptions will decide whether this particular provision will either become the most burdensome part of the GDPR regarding execution costs¹, or the provision that allows SMEs to run their business without red tape. Without your intervention we fear the former.

As a consequence of article 30, companies must register all their processing activities. There is, however, a welcome exemption for companies with less than 250 employees, unless certain conditions apply.

The problem is that one of the mentioned conditions for exemption in article 30 (5) is that processing of personal data is "not occasional". We are concerned that a strict reading would result in all SMEs losing the exemption, since maintaining supplier or client records could already be considered as a non-occasional manner of processing data. Such reading would actually nullify the exemption, resulting in a virtually useless dispensation for all SMEs.

A solution could be found in a more generous reading, in line with the parliamentary history of the GDPR and reflecting its "risk based approach". For instance, by reading the aforementioned condition as "not processing personal data as core business".

This way the exemption would make sense, instead of being void. However, if data protection authorities consider the conditions of article 30 (5) GDPR to be read strictly for all data processing activities, the provided exemption would be useless for SMEs. Not only compliance costs would rise significantly for companies EU-wide, they also risk facing fines when assuming (in good faith) that they fall under the exemption for SMEs mentioned in article 30.

¹ Only in The Netherlands, an estimate by the government (2013) suggests that this obligation could result in an annually execution cost between 156 and € 500 million.

Therefore, we urge the joined Data Protection Authorities (EDPB) to apply a reading of this article in favour of unburdening SMEs.

We insist that an implementation is required that is as business friendly as possible to ensure reaching the objectives and we look forward to your opinion on the issue.

For more information you can contact Luc Hendrickx, Director Enterprise Policy, l.hendrickx@ueapme.com

Yours faithfully,

A handwritten signature in blue ink, consisting of a large, stylized 'V' followed by a horizontal line that tapers to the right.

Véronique Willems
Secretary General

CC: Mr Antonello SORO,
President of Garante per la protezione dei dati personali