

Main elements of EDPS speech at SWIFT hearing (Wednesday 4 October 2006)

CHECK AGAINST DELIVERY

The EDPS has participated in the public hearing on "The interception of Bank Transfer Data from the Swift System by the US Secret Services" organised by the European Parliament and taking place in the EP earlier today.

In his statement at the hearing, the EDPS reported on his contribution to ongoing investigations into this case by competent data protection authorities, and presented some preliminary observations and provisional findings.

Referring to the report of the Belgian Privacy Commission, published last week, the EDPS confirmed that European data protection law applies to activities of and via SWIFT; that SWIFT should be considered as a responsible controller and not only as a processor, and that participating banks should be seen as responsible controllers, each for their own parts of the personal data processing.

Serious questions have arisen as to the routine sharing of financial data by SWIFT with a complete 'mirror system' in the US, and with regard to the access to financial data in this system allowed to the US authorities in a 'black box' arrangement. These questions need further analysis and reflection on their compatibility with European data protection law and on different issues of responsibility.

The EDPS also expressed serious concerns as to the lack of transparency around this arrangement, which has been in existence since 2001 but was only mentioned in the media in June 2006.

As to the role of the European Central Bank as financial overseer, the EDPS would have expected more initiative to bring this arrangement – which it was made aware of in February 2002 – to the notice of relevant authorities and responsible governments. He did not want to exclude that the ECB could be held at least morally responsible for not taking adequate steps to that effect.

As to the role of the ECB as a SWIFT customer, the EDPS could not avoid feeling that it had accepted an inappropriate risk by continuing to transfer financial data through SWIFT after it had become aware of the arrangement with the US authorities.

The EDPS stated that he was available to advise on any measures needed to deal with the present situation.