

# Minutes



Final

## 42<sup>nd</sup> Plenary meeting

19 November 2020, Remote

*Some points have been redacted from these minutes as their publication would undermine the protection of one or more of the following legitimate interests, in particular: the public interest as regards international relations; the privacy and integrity of the individual regarding the protection of personal data in accordance with Regulation 2018/1725; the commercial interests of a natural or legal person; ongoing or closed investigations; the decision-making process of the EDPB, in relation to matters upon which a decision has not yet been taken and/or the decision-making process of the EDPB, in relation to matters upon which a decision has been taken.*

### 1 Adoption of the minutes and of the agenda

#### 1.1 Minutes of the 41<sup>st</sup> EDPB meeting – adoption

The minutes of the previous plenary meeting were adopted unanimously. The public version of the minutes was also adopted.

#### 1.2 Publication of minutes of 40<sup>th</sup> Plenary meeting - adoption

The members of the EDPB unanimously adopted the public version of the minutes of the 40<sup>th</sup> Plenary meeting.

#### 1.3 Draft agenda of the 42<sup>nd</sup> EDPB meeting – adoption

The draft agenda was adopted with no changes.

#### 1.4 Request to extend the deadline for public consultation re recommendation 01/2020 on supplementary measures

The Chair of the EDPB informed the members of the EDPB of the requests to extend the deadline for the public consultation on recommendations 1/2020 on supplementary measures. The members of the EDPB agreed to extend the deadline until 21 December 2020.

## 2 Current Focus of the EDPB Members

### 2.1 Presentation of the new (updated) two sets of SCCs – information (Rapporteur: COM)

The EU COM presented the new updated sets of SCCs. One set of SCCs for contracts between controllers and processors, and another one for data transfers outside the EU. The draft controller-processor SCCs are fully new and have been developed by the EU COM in accordance with Art. 28 (7) GDPR and Art. 29 (7) of Regulation 2018/1725. The EU COM prepared this after having consulted a multi-stakeholders group. These SCCs will have an EU-wide effect and aim to ensure full harmonisation and legal certainty across the EU when it comes to contracts between controllers and their processors. In addition, the EU COM presented another set of SCCs for the transfer of personal data to third countries pursuant to Art. 46 (2) (c) GDPR. These SCCs will replace the existing SCCs for international transfers that were adopted on the basis of Directive 95/46 and needed to be updated to bring them in line with GDPR requirements, as well as with the CJEU's 'Schrems II' ruling, and to better reflect the widespread use of new and more complex processing operations often involving multiple data importers and exporters.

It was explained that a joint opinion from the EDPB and the EDPS was requested on both sets of SCCs and the respective implementing acts. The deadline for the opinion is 15 January 2021.

The chair of the EDPB informed the EDPB members that a remote plenary meeting will be organized on 14 January 2021 in order to adopt the relevant document(s). The members of the EDPB were invited to volunteer to act as rapporteurs.

The importance to ensure coherence and consistency in the opinion when it comes to the both sets of the SCCs was stressed during the discussion.

## 3 For discussion and/or adoption - ESGs and Secretariat

### 3.1 Cooperation ESG

### 3.2 Technology ESG

#### 3.2.1 Statement on ePrivacy Regulation

The rapporteur presented the statement, which focuses on the need to ensure consistent interpretation and supervision of the future ePrivacy Regulation when it comes to processing of personal data. According to the EDPB, consistent interpretation and enforcement of both sets of rules, when covering personal data protection, would therefore be fulfilled in the most efficient way, if the enforcement of those parts of the ePrivacy Regulation and the GDPR would be entrusted to the same authority. In addition, the statement stresses the urgency to conclude the negotiations and recalls previous positions of the EDPB.

Additional proposals were made during the meeting in order to reflect the current status of negotiations in the Council and to reiterate the EDPB support for the strict approach in the future Regulation.

The statement, as modified during the meeting, was unanimously adopted by the EDPB members.

#### 3.2.2 Letter to News Media Europe and others regarding cookie walls

The rapporteur presented the document. The draft reply was agreed by the two ESGs involved.

The members of the EDPB unanimously adopted the response.

### 3.3 BTLE ESG

#### 3.3.1 Legal studies

### 3.5 EDPB Secretariat

#### 3.5.1 Art. 64.1 Opinions on BCRs ( [REDACTED] ) – confirmation of rapporteurs

The EDPB Secretariat recalled the decision of the EDPB at its the 20<sup>th</sup> plenary meeting and the BCR procedure, and informed the members of the EDPB that a team of rapporteurs had been secured for the three Opinions on the referred BCRs.

The members of the EDPB gave the mandate to the rapporteurs.

## 4 AOB

The EDPB members agreed with the proposal by the chair of the EDPB to plan the EDPB plenary meetings for 2021 following the timetable of the EDPB plenary meetings for 2021 already agreed (however, only one day out of planned two days per meeting will be selected).

### Annex: Attendance List

SAs: AT SA, BE SA, BG SA, CY SA, CZ SA, DE SA, DK SA, EDPS, EL SA, ES SA, FI SA, FR SA, HR SA, HU SA, IE SA, IS SA, IT SA, LI SA, LT SA, LU SA, MT SA, NL SA, NO SA, PL SA, PT SA, RO SA, SE SA, SI SA, SK SA

- EFTA Surveillance Authority
- European Commission
- EDPB Secretariat