



Final

## 63<sup>rd</sup> Plenary meeting

6 April 2022, 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, Information given by the Chair

#### 1.1 Minutes of the 62<sup>nd</sup> Plenary meeting – adoption

The minutes of the previous plenary meeting were adopted unanimously.

#### 1.2 Draft agenda of the 63<sup>rd</sup> EDPB meeting – adoption

The draft agenda was adopted without modifications.

The discussions relating to agenda points 1.3, 2.1 and 4.1 were declared confidential according to Art. 33 EDPB RoP.

#### 1.3 Trans-Atlantic Data Privacy Framework - information by the Chair and proposed EDPB Statement

The chair recalled the recent developments regarding the Trans-Atlantic Data Privacy Framework and explained the proposal to issue an EDPB statement.

The European Commission informed the EDPB members that a political agreement in principle has been reached with the US on the new framework, but it still has to be translated into the legal texts.

The EDPB Secretariat presented the draft EDPB statement, which was prepared at the request of the chair of the EDPB. The draft statement welcomes the recent announcement about the political agreement in principle, recalls the applicability of the current obligations on exporters until a new adequacy decision enters into effect and reiterates the key requirements that any new adequacy decision has to meet under the EU law, in particular regarding the collection of personal data for national security purposes and effective and independent redress mechanism.

During their discussion, the EDPB members agreed on several modifications in the draft statement.

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

## 2 Consistency mechanism, Guidelines and EDPB RoP

### 2.1 EDPB Rules of Procedure amendment on notification and translation of binding decisions according to Art. 65 GDPR – discussion and adoption

The EDPB Secretariat presented the proposed amendments to Article 11 of the EDPB Rules of Procedure regarding notification and translation of binding decisions according to Art. 65 GDPR. In addition, textual corrections were made throughout the Rules of Procedure, where appropriate.

The European Commission drew attention to the Regulation 1/58 in the light of proposed amendment.

The EDPB Rules of Procedure amendment was adopted by the EDPB members unanimously and thus in line with Art. 72(2) GDPR.

## 3 FOR DISCUSSION AND/OR ADOPTION – Expert Subgroups, CSC and Secretariat

### 3.1 BTLE and ITS ESG

#### 3.1.1 Guidelines on Art. 48 GDPR– request for mandate

The BTLE ESG coordinator presented the request for mandate regarding EDPB Guidelines on Art. 48 GDPR, to be prepared by the BTLE ESG with the assistance of other ESG, and the ITS ESG in particular, where necessary. The coordinator explained that it is suggested to firstly develop guidance on access requests from third country authorities for law enforcement and national security purposes.

The EDPB members adopted the mandate unanimously.

### 3.2 CEH ESG

#### 3.2.1 Potential additional competences for SAs in light of legislative proposals at EU level – request for mandate

The COOP ESG coordinator explained that, in the context of the discussions on the digital package and data strategy, there are several proposals in different EU legislative initiatives regarding potential additional powers and competences for the SAs. Therefore, it is proposed to launch an internal discussion within the EDPB and to collect views of SAs regarding such new powers.

Following the discussion, the EDPB members confirmed the competence of the CEH ESG to discuss issues relating to the digital package and data strategy as part of its work, and agreed to launch an exchange of knowledge within the CEH ESG and collect the views of SAs regarding additional competences for SAs, without adopting a new mandate at this stage.

### 3.3 ENF ESG

#### 3.3.1 Letter on the independence of the BE SA - discussion and adoption

The ENF ESG coordinator presented the draft letter expressing concerns about the recent legislative developments in Belgium aimed at reforming the law establishing BE SA.

Several modifications to the draft letter were agreed during the meeting.

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

## 3.4 Secretariat

### 3.4.1 2021 EDPB budget execution and 2023 EDPB budget proposal – information

The EDPS (HR, budget and administration unit) and the EDPB Secretariat presented the execution of the 2021 EDPB budget, the 2023 EDPB budget proposal and the next steps. The 2023 budget proposal will be first examined by the European Commission, which will then make its official budget proposal for the EU. Following that, it will have to be agreed by the Council of the EU and the European Parliament.

The EDPB members were invited to liaise with their national governments to encourage them to support the EDPB's budget when it will be negotiated at the Council of the EU.

### 3.4.2 Format of the EDPB plenary meeting on 14 -15 June 2022 - decision

The EDPB members agreed that an EDPB plenary meeting will take place in person on 14-15 June 2022.

## 4 AOB

### 4.1 Data transfers to the Russian Federation - discussion

LV SA presented their proposal for the EDPB to develop a common view on the current situation regarding personal data transfers to the Russian Federation.

Following the discussion, the EDPB members agreed to task the ITS ESG to urgently explore the issues relating to the matter of personal data transfers to the Russian Federation and, if considered appropriate, to prepare a request for mandate to the EDPB plenary.

### 4.2 Status of the EDPB at the Conference of European Data Protection Authorities - decision

The EDPB Secretariat presented the possible application of the EDPB for participation in the Conference of European Data Protection Authorities ("Spring Conference"), which will take place next in Croatia on 19-20 May 2022.

The EDPB members agreed that the EDPB should request the observer status to the Conference of European Data Protection Authorities.

## 5 For information - Expert subgroups and Secretariat

### 5.1 Guidelines on Certification as a tool for transfers – written state of play

The EDPB members took note of the written state of play.

### Annex: Attendance List

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

- European Commission

- Observers: MD SA. In line with Art. 8 of the EDPB RoP, the observers were present during the plenary meeting except for points 1.3, 2.1 and 4.1 of the agenda.

- EDPB Secretariat