



Final

81st Plenary meeting

20 June 2023, Remote

1 Adoption of the minutes and of the agenda, Information given by the Chair

1.1 Minutes of the 80th Plenary meeting – adoption

The minutes of the previous plenary meeting were adopted unanimously. The EDPB members also agreed on the public version of the minutes.

1.2 Draft agenda of the 81st EDPB meeting – adoption

The draft agenda was adopted following the withdrawal of point 3.3.2 (Register of Art 27 Representatives - request for mandate), the clarification that point 3.1.1 was to be adopted after public consultation) and with the inclusion of additional AOB points (SIGMA programme (joint initiative of OECD and the EU) proposed meeting with 11 SAs from the Western Balkans and Eastern Partnership Region, representative for European Data Protection Innovation Board (EDIB) - DGA, EDPB Plenary meeting on 18 July, update from the COOP ESG Coordinator, update on the 2024 report on the application of GDPR).

The discussions relating to agenda points 3.3.1 and 3.4.1 were declared confidential according to Art. 33 EDPB RoP.

The Chair provided a short update on the hearing that took place at the Council regarding the EPDB budget.

2 Current Focus of the EDPB members

2.1 Access to documents: European Ombudsman's findings of maladministration – discussion and adoption

The Chair recalled that the European Ombudsman (EO) has been dealing with three complaints lodged by citizens following requests to access to documents made to the EDPB. The EO issued Recommendations to the EDPB in March 2023 to provide the broadest access possible to the documents. The EDPB has to provide detailed replies on the EO Recommendations by 28 June 2023.

The Chair underlined the need to comply with Regulation EC 1049/2001 and highlighted the strict interpretation provided by the CJEU of the exceptions provided under Regulation 1049/2001 on access to documents.

The EDPB Secretariat presented the draft letters. The letters emphasized that EDPB fully supports providing the Ombudsman's recommendation to provide the broadest possible access to the documents at issue, in compliance with Regulation EC 1049/2001.

The EDPB Secretariat illustrated the differences between the letters, given the specificities of each case.

The EDPB members adopted the letters, with one EDPB member abstaining (the EDPS).

3 Expert Subgroups and the EDPB Secretariat

3.1 ITS ESG

3.1.1 Recommendations 1/2022 on the application for approval and on the elements and principles to be found in Controller Binding Corporate Rules (Art. 47 GDPR) (after public consultation) - adoption

The rapporteur presented the draft Recommendations on the application for approval and on the elements and principles to be found in Controller Binding Corporate Rules (Art. 47 GDPR) following the public consultation. The version for public consultation was adopted in November 2022. The public consultation ended in January 2023. The ITS ESG received 15 contributions. All the discussion points were addressed at different ITS ESG meetings and resolved.

The EDPB member adopted the revised recommendations unanimously.

3.2 KEYP ESG

3.2.1 Reply to Personal Information Protection Commission of Republic of Korea - adoption

The EDPB Secretariat presented the draft reply to the Personal Information Protection Commission of Republic of Korea.

The EDPB members adopted the reply unanimously. The EDPB members agreed to send the reply as soon as possible and to publish the letter if the Personal Information Protection Commission of Republic of Korea would not oppose to this.

3.3 COOP ESG

3.3.1 Data Subjects' Complaint Template - adoption (no observers) *confidential discussion*

The EDPB Secretariat explained the work done by the COOP ESG since May 2022 and explained that feedback from certain NGOs was taken into account. The EDPB Secretariat presented the template

complaint form, together with the template acknowledgement of receipt, both of which are to be implemented by the SAs on a voluntary basis and depending on their national law requirements.

The mandatory complaint template for cross-border cases that the EC would introduce in the framework of the new Regulation on procedural aspects was also discussed. The EC informed they would use the work accomplished by the COOP ESG as a basis. The EDPB agreed it would be appropriate to analyse the interplay between this future mandatory template and the one adopted by the EDPB.

The EDPB members adopted the template complaint form unanimously.

The EDPB members discussed and amended one paragraph of the acknowledgement of receipt. The EDPB members then unanimously adopted the acknowledgement of receipt with the amendments.

3.4 The EDPB SEC

3.4.1 Observers: Request from the Georgian SA to become an observer - **discussion and decision (no observers) *confidential discussion***

The Georgian DPA introduced a formal request to the EDPB to become an observer on 4 April 2023. The Chair recalled the current list of observers, adding that in December 2019, the EDPB decided to update its rules of procedure (EDPB RoP) for the conditions to become observers.

The EDPB members decided unanimously to give the Georgian SA the status of observer to the EDPB's activities.

3.5 TECH ESG

3.5.1 Letters from MEP - private relay and laptop lenses - **adoption**

The MEP Moritz Körner sent 3 letters (on laptop lenses, on private relay and on do-no-track) to the EDPB.

The rapporteur presented the draft letter on laptop lenses, which reaffirms a position expressed by the EDPB in mid-2020. The rapporteur presented the draft letter on private relay, which reiterates a position taken on Art. 25 GDPR. The draft letters were supported by the TECH ESG members.

The EDPB members approved the letters unanimously.

A member proposed to act as lead rapporteur for the "do-not-track" letter.

3.5.2 Interplay AI Act / EU data protection law - **request for mandate**

The rapporteur recalled that this work item was already included in the EDPB's work programme for 2023-2024. The request for mandate was endorsed by the TECH ESG.

Following a discussion on whether the topic should be entrusted to several ESGs, the EDPB decided to entrust the subject matter to the TECH ESG, which will have to work in close cooperation with CEH and KEYP ESG.

The EDPB members unanimously approved the mandate, with the change relating to the ESG in charge.

4 AOB

4.1 SIGMA programme (joint initiative of OECD and the EU) proposed meeting with 11 SAs from the Western Balkans and Eastern Partnership Region

The EDPB Secretariat explained to have been contacted by a representative of the SIGMA programme (Support Improvement in Government and Management, a joint initiative of OECD and the EU) about a high-level exchange and learning week on Data Protection organised in Brussels from 18 to 22 September 2023 for the 11 Data Protection Oversight Bodies from Western Balkans and Eastern Partnership Region. The participants include delegations from 6 countries in the Western Balkans (Albania, Bosnia and Herzegovina, North-Macedonia, Montenegro, Kosovo and Serbia) and 5 Eastern Partnership Countries (Armenia, Azerbaijan, Georgia, Moldova and Ukraine). They requested to meet the EDPB Secretariat and EDPB members during that week.

The Chair highlighted the unique opportunity to meet with representatives of these 11 countries and proposed to add a session in the margin of the EDPB plenary of September.

The Chair also proposed that a meeting will be first organised with the EDPB Secretariat, which will already introduce the EDPB's mission and work.

The EDPB members took note of the information and agreed on the proposal of the Chair. The Chair and the EDPB Secretariat will prepare an agenda for the meeting in collaboration with SIGMA. A Member highlighted that the appropriate level of representation (Chair, or Vice-Chair) for the introductory meeting on the EDPB's mission and work could be defined later on. The Chair invited the EDPB members to join in the organisation of the meeting.

4.2 Representative for European Data Protection Innovation Board (EDIB) - DGA

The EDPB received a letter from the European Commission for the nomination of an EDPB Representatives for the European Data Protection Innovation Board (EDIB) - DGA.

One EDPB representative should be nominated by 7 July 2023. The EDPB Secretariat contacted the European Commission for further clarification on the eligibility criteria. The European Commission indicated that the representative did not need to be the head of a DPA, but could also be someone from the EDPB Secretariat. The person should be somebody knowledgeable and able/willing to contribute, bringing in the perspective/expertise of the EDPB.

The EDPB Secretariat will provide further information in writing to the members and will launch a call for candidates and then an anonymous writing voting procedure.

The EDPB members took note of the information provided.

4.3 EDPB Plenary meeting on 18 July 2023

The Chair informed the members that the plenary meeting scheduled on the 18 July 2023 (remote) will be confirmed. The Chair recalled that the EDPB had this decision to take according to Art. 65 GDPR and the deadline was set for mid-August 2023. In addition, an ad hoc plenary meeting will be organized on 31 July 2023 or during the same week for the adoption of an Art. 65 GDPR Binding decision.

The EDPB members took note of the information provided.

4.4 Update from the COOP ESG Coordinator

The COOP ESG Coordinator announced his resignation from his role. Soon the COOP ESG will be asked to nominate a new co-coordinator.

4.5 Update on the 2024 report on the application of GDPR

The European Commission informed the EDPB members that, in the context of the 2024 GDPR Report, the European Commission will send a questionnaire to the EDPB members probably during autumn 2023 with a deadline to reply by the end of 2023. The report of the European Commission is expected to be published in the middle of 2024.

Annex: Attendance List

SAs:

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, ISSA, IT SA, LI SA, LT SA, LU SA, LV SA, MT SA, NL SA, NO SA, PL SA, PT SA, ROSA, SE SA, SI SA, SK SA

- European Commission

- Observers: AL SA, MD SA.

In line with Art. 8 of the EDPB RoP, the observers were present during the plenary meeting except for points 3.3.1, 3.3.2 and 3.4.1 of the agenda.

- EDPB Secretariat