



14.4.2025

Data Protection Ombudsman's decision approving Processor Binding Corporate Rules for Nokia

Summary of the facts

Pursuant to the request by Nokia Corporation on behalf of the Nokia Group (hereinafter also "**Nokia**"), received on 21.12.2018, for approval of their Binding Corporate Rules for Processor (hereinafter also "**BCR-P**");

Having regard to Articles 47, 57 and 64 of the Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation or GDPR);

Having regard to the judgment of the Court of Justice of the European Union *Data Protection Commissioner v. Facebook Ireland Ltd and Maximillian Schrems*, C-311/18 of 16 July 2020;

Having regard to EDPB Recommendations 01/2020 on measures that supplement transfer tools to ensure compliance with the EU level of protection of personal data of 18 June 2021;

The Data Protection Ombudsman makes the following observations:

1. Article 47(1) of the EU General Data Protection Regulation 2016/679 (GDPR) provides that the competent supervisory authority shall approve Binding Corporate Rules (BCRs) provided that they meet the requirements set out under this Article.
2. The implementation and adoption of BCRs by a group of undertakings is intended to provide guarantees to controllers and processors established in the EU as to the protection of personal data that apply uniformly in all third countries and, consequently, independently of the level of protection guaranteed in each third country.
3. Before carrying out any transfer of personal data on the basis of the BCRs to one of the members of the group, it is the responsibility of any data exporter in a Member State, if needed with the help of the data importer, to assess whether the level of protection required by EU law is respected in the third country of destination in the case of the specific data transfer, including onward transfer situations. This assessment has to be conducted in order to determine whether any legislation or practices of the third country applicable to the to-be-transferred data may impinge on the data importer's and/or the data exporter's ability to comply with their commitments taken in the BCR, taking into account the circumstances surrounding the transfer. In case of such possible impingement, the data exporter in a Member State, if needed with the help of

the data importer, should assess whether it can provide supplementary measures in order to exclude such impingement and therefore to nevertheless ensure, for the envisaged transfer at hand, an essentially equivalent level of protection as provided in the EU. Deploying such supplementary measures is the responsibility of the data exporter and remains its responsibility even after approval of the BCRs by the competent Supervisory Authority and as such, they are not assessed by the competent Supervisory Authority as part of the approval process of the BCRs.

4. In any case, where the data exporter in a Member State is not able to implement supplementary measures necessary to ensure an essentially equivalent level of protection as provided in the EU, personal data cannot be lawfully transferred to a third country under these BCRs. In the same vein, where the data exporter is made aware of any changes in the relevant third country legislation that undermine the level of data protection required by EU law, the data exporter is required to suspend or end the transfer of personal data at stake to the concerned third countries.
5. In accordance with the cooperation procedure as set out in the Working Document WP263 rev.01, the Processor BCRs application of Nokia was reviewed by the Data Protection Ombudsman, as the competent SA for the BCRs (BCR Lead) and by two SAs acting as co-reviewers. The application was also reviewed by the concerned SAs to which the BCRs were communicated as part of the cooperation procedure.
6. The review concluded that the Processor BCRs of Nokia comply with the requirements set out by Article 47(1) of the GDPR as well as the Working Document WP257 rev.01¹ and in particular that the aforementioned BCRs:
 - i) Are legally binding and contain a clear duty for each participating member of the group including their employees to respect the BCRs by entering in an Intra-Group Agreement. The BCR-P cover only Nokia Group Entities who have signed the BCR Intra-Group Agreement. The BCR-P are included in Nokia's Code of Conduct and thereby made binding on employees either directly or through implementation of the Code of Conduct according to country specific law (Sections 1, 2.1 and 8.1 of the BCR-P);
 - ii) Expressly confer enforceable third-party beneficiary rights to data subjects with regard to the processing of their personal data as part of the BCRs (Sections 6 and 11 of the BCR-P);
 - iii) Fulfil the requirements laid down in Article 47(2) of the GDPR:
 - a) The structure and contact details of the group of undertakings and each of its members are described in the application form WP265 as well as in the list of Nokia Group entities that were provided as part of the file review;
 - b) the data transfers or set of transfers, including the categories of personal data, the type of processing and its purposes, the type of data subjects affected and the identification of the third country or countries in question are specified in Section 2 of the BCR-P;

¹ Endorsed by the EDPB on 25 May 2018.

- c) the legally binding nature, both internally and externally, of the Processor BCRs is recognized in Section 8 of the BCR-P;
- d) the application of the general data protection principles, in particular purpose limitation, data minimisation, limited storage periods, data quality, data protection by design and by default, legal basis for processing, processing of special categories of personal data, measures to ensure data security, and the requirements in respect of onward transfers to bodies not bound by the BCRs are detailed in Section 4.1 of the BCR-P;
- e) the rights of data subjects in regard to processing and the means to exercise those rights, including the right not to be subject to decisions based solely on automated processing, including profiling in accordance with Article 22 of the GDPR, the right to lodge a complaint with the competent SA and before the competent courts of the Member States in accordance with Article 79 of the GDPR, and to obtain redress and, where appropriate, compensation for a breach of the BCRs which are set forth in Sections 6 and 11 of the BCR-P;
- f) the acceptance by the controller or processor established on the territory of a Member State of its liability for any breaches of the BCRs by any member concerned not established in the Union as well as the exemption from that liability, in whole or in part, only if the concerned party proves that that member is not responsible for the event giving rise to the damage are specified in Section 12 of the BCR-P;
- g) how the information on the BCRs, in particular on the provisions referred to in points (d), (e) and (f) of Article 47(2) of the GDPR are provided to the data subjects in addition to Articles 13 and 14 of the GDPR, is specified in Sections 11, 14 and 17 of the BCR-P;
- h) the tasks of any data protection officer designated in accordance with Article 37 of the GDPR or any other person or entity in charge of monitoring the compliance with the binding corporate rules within the group of undertakings, or group of enterprises engaged in a joint economic activity, as well as monitoring training and complaint-handling are detailed in Section 5 of the BCR-P;
- i) the complaint procedures are specified in Sections 7 and 11 of the BCR-P;
- j) the mechanisms put in place within the group of undertakings for ensuring the monitoring of compliance with the BCRs are detailed in Section 10 of the BCR-P. Such mechanisms include data protection audits and methods for ensuring corrective actions to protect the rights of the data subject. The results of such monitoring are communicated to the person or the entity referred to in point (h) above and to the board of the controlling undertaking of the group of undertakings (in this situation

to Nokia headquarters, as well as to the data privacy organization) and are available upon request to the competent SA;

- k) the mechanisms for reporting and recording changes to the rules and reporting those changes to the SAs are specified in Section 14 of the BCR-P;
 - l) the cooperation mechanism put in place with the SA to ensure compliance by any member of the group of undertakings is specified in Section 13 of the BCR-P. The obligation to make available to the SA the results of the monitoring of the measures referred to in point (j) above is specified in Section 10 of the BCR-P;
 - m) the mechanisms for reporting to the competent SA any legal requirements to which a member of the group of undertakings is subject in a third country which are likely to have a substantial adverse effect on the guarantees provided by the binding corporate rules are described in Section 15.1 of the BCR-P;
 - n) finally, provide for an appropriate data protection training to personnel having permanent or regular access to personal data (Section 9 of the BCR-P).
7. The EDPB provided its opinion on 8 April 2025 in accordance with Article 64(1)(f) of the GDPR. The Data Protection Ombudsman took utmost account of this opinion.

Decision of the Data Protection Ombudsman

The Data Protection Ombudsman decides as following:

1. The Data Protection Ombudsman approves the Processor BCRs of Nokia as providing appropriate safeguards for the transfer of personal data in accordance with Article 46(1) and (2) (b) and Article 47(1) and (2) GDPR. For the avoidance of doubt, The Data Protection Ombudsman recalls that the approval of BCRs does not entail the approval of specific transfers of personal data to be carried out on the basis of the BCRs. Accordingly, the approval of BCRs may not be construed as the approval of transfers to third countries included in the BCRs for which, an essentially equivalent level of protection to that guaranteed within the EU cannot be ensured.
2. The approved BCRs will not require any specific authorization from the concerned SAs.
3. In accordance with Article 58(2)(j) GDPR, each concerned SA maintains the power to order the suspension of data flows to a recipient in a third country or to an international organisation whenever the appropriate safeguards envisaged by the Processor BCRs of Nokia are not respected.

Annex to the decision

The Processor BCRs of Nokia that are hereby approved cover the following:

a. Scope.

Only members of the Nokia Group acting as Processors, that are legally bound by the BCRs as described in Section 2.1 of the BCR-P.

- b. EEA countries from which transfers are to be made:** Personal data can be transferred from any Nokia Group Entity in the following EEA Member States: Austria, Belgium, Bulgaria, Croatia, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Netherlands, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, Spain and Sweden as well as non-EEA countries Switzerland and United Kingdom.
- c. Third countries to which transfers are to be made:** The cross-border locations are listed in Sections 2.1 and 2.4 of the BCR-P.
- d. Purposes of the transfer:** As a Data Processor, Nokia Processes Personal Data while providing services to Customers, at their request and on the basis of the Services Agreement and ancillary agreements. Typically Processing occurs while conducting activities and functions like: delivering professional services, network implementation, deployment and products maintenance services, local and remote support and troubleshooting, network monitoring, configuration management, incident and alarm management and notification, reporting, data analytics, data storage and compliance. Purposes are listed in Sections 2.2 and 2.4 of the BCR-P.
- e. Categories of data subjects concerned by the transfer:** The BCR-P cover the following categories of Data Subjects: customers, consumers and employees of customer. Data subjects are listed in Section 2.3 of the BCR-P.
- f. Categories of personal data transferred:** Categories of Personal Data are listed in Sections 2.2 and 2.4 of the BCR-P.

Appeals

According to section 25 of the Data Protection Act (1050/2018), this decision may be appealed in the Administrative Court by Lodging an appeal with the provisions of the Administrative Judicial Procedural Act (808/2019).

The appeal instructions are enclosed.

Signature

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Data Protection Ombudsman

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