



PRESIDENT OF THE
PERSONAL DATA
PROTECTION OFFICE

Mirosław Wróblewski

Warsaw, 31 March 2025

DWM.4413.2.2025.AFK

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acting on behalf of

BOX Poland sp. z o.o.

DECISION

ON APPROVAL

OF UPDATED BINDING CORPORATE RULES

Pursuant to Art. 56(1) in conjunction with Art. 7(1) of the Act of 10 May 2018 on the protection of personal data (Journal of Laws 2019, item 1781) in conjunction with Article 104(1) of the Code of Administrative Procedure of 14 June 1960 (Journal of Laws 2024, item 572) and pursuant to Art. 47(1) in connection with Art. 57(1)(s), Art. 58(3)(j) 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 (*OJ L 119, 4.5.2016*) following an administrative procedure concerning the examination of an application submitted by BOX Poland sp. z o.o. for the approval of an update of BOX Group's Binding Corporate Rules for the controller, the President of the Personal Data Protection Office

Approves the update of the BOX Group Binding Corporate Rules for processors.

JUSTIFICATION

By letter of 13 April 2022, BOX Poland sp. z o.o. (hereinafter referred to as the applicant) requested that the President of the Personal Data Protection Office (hereinafter referred to as the President of the Office or the supervisory authority) assume the role of the lead authority for the Binding Corporate Rules (hereinafter: BCR)

for controllers and processors of the BOX Group. The case was conducted jointly for BCR for controllers and processors under the file reference no. DOL.4413.9.2022.

Earlier, on 21 July 2021, the President of the Office received an electronic message from the applicant's representative regarding the possible takeover by the data protection authority of the supervision of the BOX Group's BCR. First of all, due to ambiguities regarding the request made by the applicant, the supervisory authority by subsequent letters, called on the Applicant to clarify the requests made and provide appropriate explanations (file reference: DOL.023.768.2021).

It was apparent from the applicant's above-mentioned letters that the BOX Group owned and used the BCR for controllers and processors approved on the basis of **Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data**¹, and that the lead authority was the United Kingdom supervisory authority (the Information Commissioner's Office, ICO). After the UK left the European Union, the BOX Group was obliged to identify a supervisory authority within the European Union that would act as a lead authority for the BCR. In view of the above, BOX Poland sp. z o.o. sent a letter of 13 April 2022 to the President of the Office.

I. Facts

On the basis of the evidence gathered in the case, the President of the Office established the following facts:

1. On 21 July 2021, the applicant sent an e-mail to the authority stating that the BOX Group was interested in transferring its BCR to the supervisory authority.
2. By further letters of 24 September 2021, 15 November 2021 and 17 February 2022, the supervisory authority called on the applicant to clarify the doubts identified, specify the request and justify the choice of the President of the Office as a potential lead supervisory authority;
3. On 13 April 2022, the applicant submitted a letter – information on the acceptance by the President of the Office of the function of the lead authority for the BCR for controllers and processors of the BOX Group after the UK supervisory authority, together with a justification as to why the President of the Office would assume the role of the lead supervisory authority.
4. By letter of 3 June 2022, the President of the Office once again asked the applicant to specify the request and indicate what specific actions it expects from the supervisory authority, and in the event that the applicant applies for approval of the BCRs, it also asked the applicant to remedy the formal deficiencies by submitting the draft BCR and the completed full versions of the application forms.
5. Subsequently, after a meeting with the representatives of the President of the Office on 15 June 2022, the applicant submitted a written reply to the letter of formal notice on 29 June 2022, in which, further specifying the request, the applicant indicated and reasoned that he requested the confirmation by the President of the Office of his role as the lead supervisory authority for the BCR for the BOX Group. The meeting also

¹ <https://eur-lex.europa.eu/legal-content/PL/TXT/?uri=CELEX%3A31995L0046>, only available in English, accessed on 31.03.2025

discussed doubts about the expiry of the deadline to "transfer" the BCR to another lead authority after the UK's departure from the EU.

6. Subsequently, the supervisory authority, in accordance with point. 2.1 Article 29 Working Party document establishing a cooperation procedure with regard to the approval of binding corporate rules for controllers and processors WP263 rev.01 (Working Document Setting Forth a Co-Operation Procedure for the approval of "Binding Corporate Rules" for controllers and processors under the GDPR, hereinafter: Document WP263 rev.01)² informed other supervisory authorities about the applicant's notification with a request for possible objections within 14 days. In response, doubts arose about the expiry of the deadline for the "transfer" of the BCR to another lead authority after the UK's departure from the EU.

7. By letter of 21 October 2022, the President of the Office presented to the applicant his doubts concerning the 'transfer' of the BCR after the expiry of the time limit related to the BCR. Brexit and no Brexit-related changes in the BCR. The supervisory authority's doubts were also raised by whether the BCR for Box Group approved by the UK supervisory authority are used as a data transfer tool within the meaning of Chapter V of the GDPR. The supervisory authority has set a one-month deadline for the applicant to respond to the comments sent.

8. By letter of 28 November 2022, the applicant submitted a formal request for confirmation by the President of the Office that he would act as the lead supervisory authority for the BCR BOX Group. At the same time, the applicant informed that, upon receipt of the confirmation, it would submit an updated BCR to the supervisory authority.

9. After consulting other supervisory authorities affiliated to the European Data Protection Board, the President of the Office informed the applicant, by letter of 15 February 2023, that the final decision on the manner in which the examination of the request to take up the role of the lead authority will be undertaken after the transmission to the supervisory authority of documents concerning BCR (current application form, a table containing elements and BCR principles aligned with the current EDPB guidelines, in particular to 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)³ and changes to the WRK also presented in change tracking mode, so that it is easy to determine which provisions have been updated. The deadline for submitting documents was set at 3 months.

10. Subsequently, by letter of 3 March 2023, the Applicant requested official, written and unambiguous confirmation that the President of the Office would act as the lead authority for the BOX Group's BCR.

11. In the reply, the supervisory authority, by letter of 16 March 2023, indicated that the letter of 15 February 2023 should be considered as the acceptance of the role of lead authority by the President of the Office and informed the Applicant that the Polish legal order does not provide for a formal confirmation by the supervisory authority of the takeover of the role of lead authority in BCR cases.

12. By letter of 27 March 2023, the applicant requested the supervisory authority to confirm how the case of BCR was further handled by the supervisory authority, i.e. as a

² <https://ec.europa.eu/newsroom/article29/items/623056>, accessed on 31.03.2025.

³ https://www.edpb.europa.eu/system/files/2023-06/edpb_recommendations_20221_bcr-c_v2_en.pdf only available in English, accessed on 31.03.2025.

process to verify and approve updates of existing BCRs as part of their annual review, in accordance with the BCR update procedure.

13. In the reply of 6 April 2023, it was indicated that the President of the Office had consulted other supervisory authorities affiliated to the EDPB and, on the basis of those consultations, had decided that a final decision on how to deal with the BOX Group's application would be taken after the required documents, as indicated in the letter of 15 February 2023, had been sent to the supervisory authority. On the basis of these documents, the supervisory authority, as lead authority, will be able to decide whether it will be sufficient to approve updates to existing BCRs or whether it will be necessary to conduct the BCR approval procedure from the outset, with the involvement of the other concerned supervisory authorities of the EU Member States and the EDPB.

14. The applicant submitted the following documents to the supervisory authority on 19 June 2023:

- a) An updated version of the EU BCR - EU Binding Corporate Rules: Controller Policy in Polish and English. The Controller Policy has been updated in order to adapt it to the new requirements contained in Recommendations 1/2022 regarding the application for approval and on the elements and principles to be found in Controller Binding Corporate Rules (Art. 47 GDPR).⁴
- b) Current Controller BCR application form (with a translation into Polish).
- c) A table containing elements and principles that should be included in the Controller BCR (together with a translation into Polish).
- d) an updated version of the EU BCR - EU Binding Corporate Rules: Processor Policy – in Polish and English;
- e) Current BCR application form for processors (with translation into Polish).
- f) A table containing elements and principles that should be included in the Processor BCR (together with a translation into Polish).
- g) Chart illustrating the international organizational structure of the Box Group.
- h) List of leading corporate clients in Poland.
- i) The intra-group agreement.

15. Following the examination of the documents received, the supervisory authority preliminarily concluded that it would not be necessary to initiate the EDPB approval procedure from the outset. Due to the introduced changes, it will be sufficient to approve the updates provided by the BOX BCR Group for controllers and processors by the President of the Office. The findings of the President of the Office were subsequently consulted with other supervisory authorities, which confirmed the appropriateness of such a solution.

16. The President of the Office forwarded the full documentation received from the Applicant to all supervisory authorities with a request for possible comments. Collected comments from supervisory authorities, in the form of two tables (ref. BCR for Controllers and BCR for Processors), were transferred to the Applicant on 7 November 2023.

⁴ Ibid.

17. The applicant responded to the comments of other supervisory authorities by letter of 17 January 2024.

18. The President of the Office forwarded the applicant's replies, together with the amended documents, to the other supervisory authorities for reassessment and, after receiving feedback, forwarded further comments from the supervisory authorities to the applicant on 16 April 2024.

19. The applicant responded to comments from other supervisory authorities and sent revised documentation on 8 May 2024.

20. By letter of 30 August 2024, the President of the Office informed the applicant that he had not received additional comments from other supervisory authorities on the version of the BCR submitted by the BOX Group on 8 May 2024. At the same time, pursuant to pt. 2.9 WP263 rev.01 the President of the Office requested the applicant to submit the final version of the documents in Polish and English. On the basis of Art. 50(1) and Article 54(1) of the Code of Administrative Procedure of 14 June 1960 set a deadline of 1 month for submitting documents.

21. On 27 September 2024, the applicant submitted to the supervisory authority the final version of the documents - the BCR Controller Policy and the BCR Processor Policy in the Polish and English versions.

22. By letter of 21 October 2024, the supervisory authority informed the applicant that the material collected in the present case was sufficient to adopt an administrative decision. At the same time, the authority informed that, in accordance with Article 10(1) of the Code of Administrative Procedure, a party has the right to comment on the evidence and materials gathered in the course of the proceedings and the requests made before adopting a decision on the case. Pursuant to Article 73(1) of the Code of Administrative Procedure, a party has the right to inspect the case file, to make notes, copies or copies thereof. Under Article 73(1a) of the Code of Administrative Procedure, the activities referred to in paragraph 1 are carried out at the premises of a public authority in the presence of an employee of that authority. The authority set a deadline of 7 days for the above.

23. On 29 October 2024, the applicant informed the supervisory authority that it would not exercise its right to comment on the evidence collected so far.

24. By letter of 19 February 2025, the supervisory authority informed the Applicant that, due to the reorganisation of the structure of the Office, BOX Poland sp. z o.o.'s application for approval of the updated Controller Binding Corporate Rules had been transferred to the Department of International Cooperation and would be considered under reference DWM.4413.3.2025.AFK.

II. Legal justification

In accordance with Article 4(20) of 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 (hereinafter referred to as Regulation 2016/679), **binding corporate rules** are data protection policies which are adhered to by a controller or processor established on the territory of a Member State for transfers or a set of transfers of personal data to a controller or processor in one or more third countries

within a group of undertakings, or group of enterprises engaged in a joint economic activity. In the absence of an adequacy decision under Art. 45(3) of Regulation 2016/679 (the so-called adequacy decision), a controller or processor may transfer personal data to a third country or an international organisation only if they provide appropriate safeguards and provided that enforceable data subject rights and effective legal remedies are in place. Such appropriate safeguards may be provided, in accordance with Article 46(2)(b) of Regulation 2016/679, by means of the BCR.

The competent supervisory authority shall approve the BCR in accordance with the consistency mechanism provided for in Article 63 of Regulation 2016/679 under the conditions set out in Article 47 of Regulation 2016/679. During the administrative proceedings, it was established that the BCR for controllers and processors of the BOX Group had been approved in 2016 by the UK supervisory authority (the Information Commissioner's Office) and until the so-called Brexit the BOX Group used approved BCR to transfer personal data. Information note on BCRs for Groups of undertakings / enterprises which have ICO as BCR Lead SA⁵ (hereinafter: Information note). According to the Information note, the BCR holders for whom the Information Ombudsperson is the lead supervisory authority must put in place all organisational arrangements on the basis of which a new lead supervisory authority in the EEA for the BCR can be established, in accordance with the criteria laid down in Document WP263 rev.01. This change of the lead supervisory authority in the case of the BCR enters into force at the latest at the end of the transition period in connection with the so-called Brexit. For such BCRs, in accordance with Directive 95/46/EC, it will not be necessary to issue a decision on the approval by the new LSA in the EEA. However, entities must amend their BCRs taking into account the EEA legal order (including Regulation 2016/679) before the end of the transition period in connection with the Brexit.

It follows from the findings of the President of the Office that the BOX Group, within the deadline indicated in the Information Note, submitted a request to the French supervisory authority to accept the role of lead authority for the BCR in the EEA. Following the procedure, the French authority ultimately refused the BOX Group acting as lead authority and did so after the expiry of the time limit indicated in the Information Note. In the light of the above, the BOX Group, through BOX Poland sp. z o.o., submitted a request to the President of the Office to assume the role of the lead authority for the BCR. After consulting other supervisory authorities within the EDPB, the President of the Office accepted to act as lead body for the BOX Group in accordance with the Lead Body Selection Criteria described in pt. 1 WP263 rev.01, i.e. taking into account that:

1. BOX Poland sp. z o.o. is an entity to which obligations related to the protection of personal data in the EEA have been transferred (point. 1.2 (b),
2. BOX Poland sp. z o.o. is the organizational unit best prepared (in terms of management functions, administrative burdens, etc.) to handle the application and enforce the implementation of the BCR in the Box Group (point. 1.2 (c),
3. Poland is the country where the majority of decisions regarding the purposes and means of data processing are taken (para. 1.2 (d),

⁵ https://www.edpb.europa.eu/sites/default/files/files/file1/edpb_informationnoteforgroupswithicoasbcrleads_a_20200722_en.pdf accessed on 31.03.2025

4. Poland is a member of the EEA from which most data transfers outside the EEA will take place (para. 1.2 (e)).

In addition, no supervisory authority objected to the President of the Office taking over the function of the lead authority for BCR Grupa BOX.

Then, after receiving the set of the BCR documentation for processors, i.e.:

- 1) updated version of the BCR for the EU – Processor Policy,
- 2) the current Processor BCR application form,
- 3) A table containing elements and principles that should be included in the Processor BCR,
- 4) a chart showing the international organisational structure of the Box Group,
- 5) list of leading corporate clients in Poland,
- 6) an intra-group agreement.

and conducting further consultations with representatives of supervisory authorities, the President of the Office decided to initiate the procedure for approving the update of the BOX Group's BCR for processors. The above was based on the fact that the changes presented by BOX Poland sp. z o.o. compared to the previous BCR for processors included:

- 1) adaptation to Recommendations 1/2022 regarding the application for approval and the elements and principles that should be included in the BCR for processors (Article 47 of the GDPR),
- 2) CJEU judgment in Case [C-311/18 \(Schrems II\)](#),
- 3) other, less important, editorial changes.

Two rounds of consultation and exchange of documents with other supervisory authorities within the EDPB and with the applicant took place as part of the procedure for approving the update of the BCR, following the examination by the SA. The President of the Office provided the applicant with comments collected from other supervisory authorities and, on the basis of those comments, the applicant amended the BCRs in question.

In the opinion of the President of the Office, the Processor BCR of the BOX Group meet the criteria set out in Article 47 of Regulation 2016/679, and then further specified in Recommendations 1/2022 regarding the application for approval and the elements and rules that should be included in the Processor BCR (Article 47 of the GDPR). The BOX Group BCR for processors is binding, applicable and enforceable by each member of the group as confirmed in the intra-group agreement and by the employees through an individual and separate agreement providing for sanctions, clauses in the employment contract, collective agreement providing for sanctions and internal group policies. In addition, the BCR explicitly grants enforceable rights to data subjects in relation to the processing of their personal data. In addition, the elements of the BOX Group's Processor BCR analyzed by the supervisory authority meet the conditions set out in Art. 47(2) of Regulation 2016/679. As mentioned above, the updates to the BCR mainly concerned alignment with the CJEU judgment in Case [C-311/18 \(Schrems II\)](#). Therefore, changes have been made to ensure adequate protection in the case of international data transfers (pt. 8 of the BCR policy), accountability (pt. 9 of the BCR

policy) and actions to be taken in the event that national regulations prevent compliance with the Controller Policy (pt. 10 of the BCR policy). The BCR has also been updated and adapted in accordance with Recommendations 1/2022 regarding the application for approval and the elements and principles that should be included in the Processor BCR (Article 47 of the GDPR) regarding, inter alia, the rules for the processing of personal data, the rights of data subjects, the complaints procedure, as well as the control of entities covered by the BCR by the supervisory authority and internal audit procedures. It should also be mentioned that the BOX Group BCR for processors was brought into line with Regulation 2016/679 at a time when the UK authority was the lead authority for those BCRs.

In view of the above, the **President of the Office approves the updated BOX Group Binding Corporate Rules for processors**. This allows the transfer of personal data to a third country in a way that does not undermine the level of protection of natural persons guaranteed by Regulation 2016/679.

Yours sincerely,

Mirosław Wróblewski

President of the Office
Personal Data Protection

/-document in electronic form
signed by qualified signature/

The decision is final. The party has the right to lodge a complaint against the decision with the Provincial Administrative Court in Warsaw, within 30 days of its delivery, via the President of the

Personal Data Protection Office (address: ul. Stawki 2, 00 – 193 Warsaw). The entry fee for the complaint is PLN 200. In proceedings before the Voivodeship Administrative Court, a party has the right to apply for a right to assistance, which includes exemption from court costs and the appointment of a lawyer, legal adviser, tax advisor or patent attorney. The right to assistance may be granted at the request of a Party made prior to the opening of proceedings or in the course of proceedings. The application is free of court fees.