Agència Andorrana de Protecció de dades

Draft submission – Comments from Andorra (APDA)

Comments on EDPB Recommendations 1/2026 on Processor Binding Corporate Rules (Art. 47 GDPR) – perspective from Andorra (adequacy country)

On behalf of the Andorran Data Protection Agency (APDA), thank you for the opportunity to contribute to the public consultation on the draft EDPB Recommendations 1/2026 on Processor Binding Corporate Rules (BCR-P). We welcome the effort to update and consolidate the former WP29 materials (WP257 rev.01 and WP265), and to clarify, in particular, the scope of the approval decision and the respective responsibilities of exporters (processors) and controllers in transfer impact assessments and supplementary measures.

From the perspective of a third country that benefits from an EU adequacy decision, we would like to suggest a small number of clarifications that could improve legal certainty and practical usability of the Recommendations for multinational groups with operations both in the EEA and in adequacy jurisdictions.

First, we suggest making more explicit—possibly in the Introduction or in the Application Form instructions—that the EDPB approval of BCR-P is, by nature, limited to transfers to third countries not covered by an adequacy decision under Article 45 GDPR, even if the group chooses to implement the BCR-P as a global internal policy beyond that approval scope. This point is already stated, but an additional practical clarification could help applicants structure their data-flow descriptions and annexes (e.g., how to reflect group members located in adequacy jurisdictions within the overall “global policy” approach, while distinguishing them from the “approval scope”).

Second, we recommend adding a short practical note on onward transfers involving adequacy jurisdictions. The draft correctly recognises that onward transfers to countries benefitting from an adequacy decision are permitted.

However, for groups that include members established in adequacy jurisdictions, applicants may still face uncertainty about whether and how those entities should be described in the “expected/anticipated data flows” for the purposes of the approval file, even where the legal transfer tool would not need to be BCR-P for the adequacy leg. A brief clarification that adequacy legs can be documented for completeness but are not part of the “approval assessment” would be helpful for consistency of applications.

Third, we welcome the strengthened section on local laws and government access requests, and the expectation that importers promptly notify exporters/controllers (and where possible data subjects), seek waivers where notification is prohibited, and document their legal assessment and challenges. In practice, in some jurisdictions secrecy/confidentiality constraints can be broad and may prevent any meaningful transparency for extended periods. We suggest clarifying two operational points: (a) that the importer should, where notification to the data subject is prohibited, prioritise at least timely notification to the exporter/controller and maintain auditable documentation for competent supervisory authorities; and (b) that the “regular intervals” reporting on access requests should be framed with a minimum baseline (e.g., annual transparency reporting as a default, where feasible), to avoid inconsistent interpretations.

Finally, we support the approach that supplementary measures are assessed and implemented at transfer level by exporters (with controller verification), rather than being assessed in the BCR-P approval itself. For coherence, it could be useful to add a short cross-reference reminding applicants that the “approval of BCR-P” should not be presented internally or externally as a blanket statement of adequacy of all processing operations, but strictly as confirmation that Article 47 GDPR requirements are met at policy level.

We hope these clarifications—particularly relevant for groups operating in adequacy jurisdictions—can improve the usability and consistent application of the Recommendations without changing their substance.

Respectfully submitted,

Andorran Data Protection Agency (APDA), 09 February 2026