



Final

16th Plenary meeting

02-03 December 2019, Brussels

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

1.1 Minutes of the 15th Plenary meeting – adoption

The minutes were adopted with some modifications on agenda item 2.1 and additions on item 4.1.

25 votes were cast in favour, joined by 3 EEA EFTA SAs taking position in favour. 1 EDPB member voted against.

1.2 Draft agenda of the 16th EDPB meeting – adoption

The draft agenda was adopted with the deletion of item 2.2.

29 votes were cast in favour, joined by 3 EEA EFTA SAs taking position in favour.

The discussions relating to points 2.1, 2.2, 2.3, 3.1, 3.2, 3.4 and the meeting with the Swiss SA were declared confidential according to Art. 33 EDPB RoP. Observers were present during the plenary meeting except for points 2.1, 2.2, 2.3, 3.1 and 3.4 of the agenda.

1.3 LIBE hearings - information by the Chair

The Chair of the EDPB informed the EDPB members about the LIBE hearing that should take place on 9 December. On 9 January 2020, there will be a hearing on the Privacy shield and the Chair explicitly asked the EDPB members of the review team to consider having more than one representative for participating in this hearing.

2. Consistency mechanism, Guidelines and EDPB RoP

2.1 Art. 64 GDPR Opinion on accreditation requirements for code of conduct monitoring body by UK SA – discussion and adoption [REDACTED]

The EDPB Secretariat presented the draft opinion. The [REDACTED] ESG reached an agreement on the draft opinion so no specific question was raised on this draft. A reference regarding the EEA will be added.

The draft opinion was adopted with 29 votes in favour, joined by 3 EEA EFTA SAs taking position in favour of the draft.

2.2 EDPB Rules of Procedure – EU 27: Revision of Art. 8 RoP (Observers) – discussion and adoption [REDACTED]

The EDPB Secretariat presented the work done by the RoP drafting team on a proposed modification to the EDPB rules of procedure on the observers.

The RoP drafting team reached a consensus on the new draft article 8 presented to the Plenary. The EDPB members discussed about the possible addition of article 64.2 in the second paragraph of the new draft of the article 8 of the RoP and agreed to keep the second paragraph unchanged.

The EDPB members agreed on the new version of article 8 of the RoP with 27 votes in favour and 2 EEA EFTA SAs taking position in favour - thus attaining the two-thirds majority required. 1 EDPB member was against and 1 EEA EFTA SA abstained.

2.3 Guidance on “The criteria of the Right to be Forgotten in the search engines cases under the GDPR” – discussion and adoption

One of the rapporteurs presented the work done by the [REDACTED] SG on the first document on the right to be forgotten which relates to the grounds and exceptions for delisting requests pursuant to art. 17 GDPR.

The EDPB members discussed drafting suggestions sent by one of the EDPB members and previously shared with the rapporteurs on p. 2 and footnote 6 of the document. The new wording was inserted in the document. In addition, EDPB members had an exchange of views on the scope of Article 17.1. GDPR. Finally, the question of the publication of the document - as guidelines - was raised.

The EDPB members voted in favour of the publication with 24 EU SAs and 2 EEA EFTA SAs. 4 EU SAs abstained and 1 EEA EFTA SA voted against the publication. The members agreed that the document will be subject to a public consultation.

The guidelines were adopted with 24 EU SAs and 2 EEA EFTA SAs voting in favour. 1 EU SA and 1 EEA EFTA SA abstained.

The Chair called all the members to volunteer as rapporteurs for the second part of the document. The [REDACTED] SA volunteered.

3. Current Focus of the EDPB Members

3.1 Update

The SA followed up on the presentations given during previous EDPB Plenary meetings and updated the information given to EDPB members regarding ongoing investigations. EDPB members took note of the information given. The members also stressed the importance of cooperation in cross-border cases.

3.2 Use of IT products and services by public authorities

The EDPS followed up on a presentation given during the June Plenary meeting and updated the EDPB members on its preliminary findings regarding its investigation into the compliance of contractual arrangements concluded between the EU institutions and Microsoft, as well as on synergies and cooperation reached with EU institutions and other public entities. EDPB members took note of the information given.

3.3 National Cookie guidelines – discussion

The Coordinator of the ESG explained to the EDPB members that - within the ESG - they continuously exchange information on national guidance and on national enforcement actions. The finding is that there are many guidelines at national level on cookies.

EDPB members took note of the information given and confirmed that there is a need to exchange views on ongoing work at national level. EDPB members agreed to entrust the ESG as a forum to exchange views on the items covered by its mandate and asked the ESG to regularly report back to the Plenary.

3.4 GDPR review - EDPB policy messages – discussion

The EU COM explained the expected outcome of its questionnaire on the evaluation of the GDPR. In addition to the questions sent by the EU COM, EDPB members expressed the need to provide EDPB policy messages, possibly also on other points not covered by the questionnaire.

As the next EDPB Plenary meeting will take place on 28-29 January 2020, the EU COM agreed to extend the deadline for contribution from the EDPB until end January 2020.

4. Expert Subgroups and Secretariat

4.1 Compliance, eGovernment and Health ESG Election of representative and alternate to the Stakeholders Cybersecurity Certification Group - discussion and adoption

The Coordinator of the CEH ESG presented the topic and recalled that this point has already been mentioned at the November plenary. The CEH ESG reached an agreement on the names of the candidates they want to appoint as representatives for the certification/accreditation topics.

The EDPB members unanimously agreed with the name of the representative and its substitute.

4.2 Key Provisions and Technology ESG: BEREC request for guidance on the revision of its guidelines on the implementation by national regulators of European net neutrality rules – discussion and adoption

The lead rapporteur presented the topic and the content of the draft letter.

After discussions and redrafting of the first part of the letter, the EDPB members adopted the letter with 23 EU SAs and 2 EEA EFTA SAs in favour. 3 EU SAs abstained.

4.3 Technology ESG: [REDACTED]

[REDACTED]

[REDACTED]

The EDPB members unanimously granted the mandate.

4.4 Secretariat: EDPB information, communications and external relations plan 2020 – discussion and adoption

The EDPB Secretariat presented the communications and external relations plan for 2020. The aim of this plan is to contribute to a solid EDPB reputation through coordinated communication and external relations activities across the EEA. The EDPB Secretariat mentioned that this plan has been already discussed by the Communications Network.

EDPB members mentioned the need to think about the part covering the press conference in relation to an Article 65 GDPR decision as mentioned in point 1 of the plan. EDPB members decided to have a discussion on this specific topic at the January Plenary.

In addition, in relation to point 3 of the plan - EDPB presence at international conferences an EDPB member express the need to better disseminate the invitations to such events within the ESGs.

The EDPB members adopted the Plan except the point on the press conference in the context of Art. 65 decisions that needs to be further discussed that the January plenary.

Meeting with the Swiss Data Protection Authority regarding Facebook Libra

EDPB members welcomed the presence of the Swiss Data Protection Authority for the exchange of views on Libra. The EDPB members and the Swiss SA recognised the importance of the exchange of information on this specific topic.

5. Miscellaneous

[REDACTED]

[REDACTED]

Translation of the DK SCCs (BE SA)

The Belgian SA suggested to have the final version of the DK SCCs translated in all EU languages. The members agreed and the EDPB Secretariat will take care of this.

Withdrawal of the 64.2 on data portability (IT SA)

[REDACTED]

Conclusion of the work regarding an EU project for DPOs (IT SA)

The Italian SA informed the EDPB members about the conclusion on the work done in the framework of an EU project with the BU SA, HR SA and ES SA regarding trainings and materials for DPOs.

Conference on 16 January for the Croatian Presidency

The Croatian SA informed the EDPB members about their Conference that will be held on 16 January 2020 in Zagreb. A “save the date” was already sent and the official invitation will come shortly.

EDPS: reminder for the event

The EDPS reminded all the EDPB members about its presentation on the EDPS’ 5 years strategy in the afternoon of the 3 December 2019.

OECD work - UK

The UK SA updated the EDPB members on the work done within the OECD, including the creation of a new working group for which the UK has been designated as Chair.

Chair: report on the meeting with Ms. Vestager

The chair reported to the EDPB members the content of her discussions with Ms. Vestager.

EU COM: Data Protection Academy

The EU COM briefly mentioned the creation of the Data Protection Academy which aims at helping third countries build their data protection systems including within their national SAs.

Annex: Attendance list

AT SA, BE 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, UK SA

European Commission

EDPB Secretariat

Observers:

AL, MD, RS

Further participants:

CH was invited on 3 December to exchange with the members on Libra.

Delegations:

CY was not present but delegated its voting rights to EL.