

# Minutes



Final

9th Plenary meeting  
09-10 April 2019, Brussels

## 1 Adoption of the minutes, the agenda and information given by the Chair

### 1.1 Minutes of the 8th EDPB meeting

The minutes were adopted with a small modification on point 2.5.

### 1.2 Draft agenda of the 9th EDPB meeting

The agenda was adopted.

Points 2.1, 2.3, 3.2 were declared confidential according to Art. 33 EDPB RoP.

Observers were present during the plenary meeting except for points 2.1, 2.3 and 3.2 of the agenda.

### 1.3 Election of a new deputy Chair - Term of office of Willem Debeuckelaere

The mandate of one of the deputy Chairs of the EDPB will end up soon. The Chair of the EDPB invited the EDPB members to submit their interest to be a deputy Chair of the EDPB. The Chair of the EDPB reminded the EDPB members that the deadline is 15 April and encouraged the interested parties to send a one-page introduction of what they plan to do as deputy Chair of the EDPB.

## 2 FOR DISCUSSION AND/OR ADOPTION - Current Focus of the EDPB

### 2.1 Processes involved in large-scale investigations conducted by the ██████ - ██████

The ██████ gave a general overview of their day-to-day business focusing on the complaint-handling procedures, the statutory investigations and litigations. The ██████ informed the EDPB members about the SA's resources, number and expertise of the staff members and presented the state of play of ongoing cases for all the companies for which they act as LSA.

The [REDACTED] explained that there was an obligation to investigate all complaints according to the national procedural law. The [REDACTED] provided a detailed description of ongoing investigations giving an overview of the complainant and the scope of the complaint.

The [REDACTED] will soon publish the draft on the regulatory strategy for the next 5 years. This document will incorporate an enforcement strategy that provides room for cooperation and decision-making on how to prioritise cases.

The EDPB members agreed that they have to support each other and confirmed the need to cooperate from the beginning of the proceedings and to exchange all relevant information.

## 2.2 Guidelines on the processing of personal data under Art. 6.1 lit b GDPR

The rapporteur presented the draft guidelines, which do not express a view on the validity of contracts for online services generally, as this is outside the competence of the EDPB. The Guidelines state that the concept of necessity has an independent meaning in European Union law, which must reflect the objectives of data protection law. Therefore, it also involves consideration of the fundamental right to privacy and protection of personal data, as well as the requirements of data protection principles including, notably, the fairness principle. The Guidelines contain guidance on the applicability of Article 6(1)(b) in case of bundling of separate services and termination of contract.

After discussion, the guidelines were adopted. 27 SAs and 2 EEA EFTA SAs voted in favour and 1 SA voted against.

## 2.3 [REDACTED]

[REDACTED]

[REDACTED]

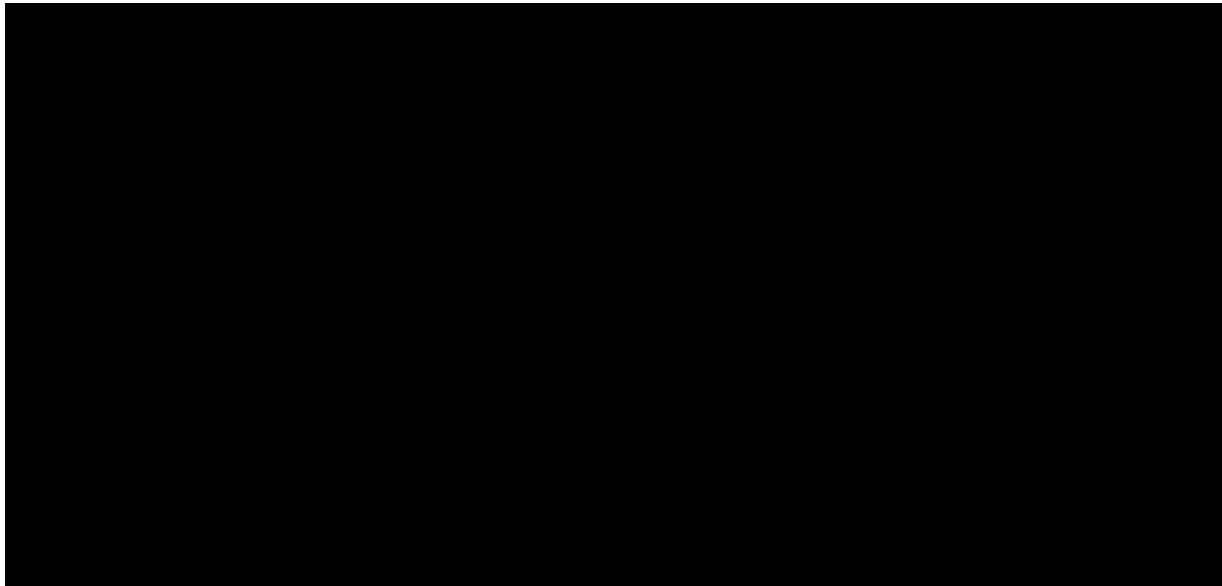
[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



## 2.4 Guidelines on certification

The coordinator of the Technology ESG gave the information that during the editorial check of the Guidelines 1/2018 on certification and identifying certification criteria in accordance with Articles 42 and 43 GDPR, a mistaken wording was identified in para 45.

The proposed text clarifies that accreditation is necessary only in the Member State of the headquarters of the certification body when only the headquarters issue the certificates. By contrast, when other establishments of the certification body also issue certificates, these establishments need to be accredited, as well. This amendment is necessary to ensure legal certainty for the certification bodies and the accreditation bodies ahead of their preparations to meet the obligations laid down in the GDPR.

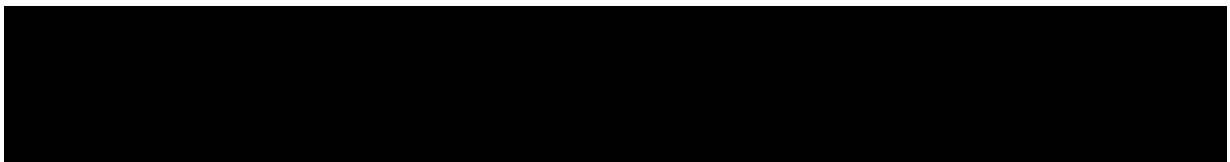
The proposed amendment was adopted by consensus and will be published by way of corrigendum to the guidelines.

## 2.5 EEA EFTA DP laws and participation to the EDPB

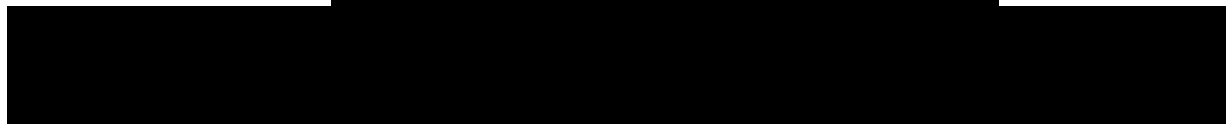
The [REDACTED] gave a presentation on the EEA EFTA rules and its relationship to the EU law.

# 3 FOR DISCUSSION AND/OR ADOPTION – Expert Subgroups and Secretariat

## 3.1 Technology ESG - Data Breach Notification



## 3.2 Enforcement ESG - [REDACTED]



The EDPB members took note of the outcomes and closed the Task Force.

### 3.3 Secretariat

#### 3.1.1 EDPB Acronyms

The EDPB Secretariat informed the EDPB that it has received several questions on acronyms. The EDPB Secretariat has compiled a list of the most commonly used acronyms and invited the EDPB to use them in a consistent manner. In particular, when circulating information, the acronym of the relevant ESG should be used to tag messages.

The EDPB has adopted the list.

#### 3.1.2 C-ITS delegated Act

The EDPB Secretariat informed the EDPB that DG Move sent requests to the EDPS and the EDPB in parallel to provide a formal opinion on the delegated regulation on EU-wide Cooperative Intelligent Transport Systems. The EDPB Secretariat suggested to the EDPB that a response in the form of a letter is sufficient, as advice has been already provided to the COM in November 2018. The [REDACTED] is involved and a draft letter will be discussed at the next [REDACTED] meeting.

[REDACTED] This will also be discussed at the next [REDACTED] meeting.

The EDPB took note of the state of play.

#### 3.1.3 Stakeholders events

The EDPB Secretariat informed the EDPB members that two stakeholder events have been organised recently: one on the PSD2 Directive on 27 February 2019 and another one on the topics of controller and processor, on 25 March 2019.

The EDPB Secretariat indicated that the intention is to organise two main stakeholder events per year, in order to gather information from stakeholders. In order to ensure a broad presence of stakeholders, the EDPB Secretariat pointed out the need to establish a standardised timeline for the organisation of such events. Therefore, the EDPB members are invited to inform the EDPB Secretariat at least 4 months in advance of any event. The next event could be scheduled for the autumn period. The EDPB members are invited to identify potential topics, based on the 2019-2020 work program, before the next plenary meeting.

The EDPB members agreed to continue the discussion on proposed topics and on new possible ways to enhance active participation of the stakeholders at the May's plenary meeting.

## 4 Miscellaneous

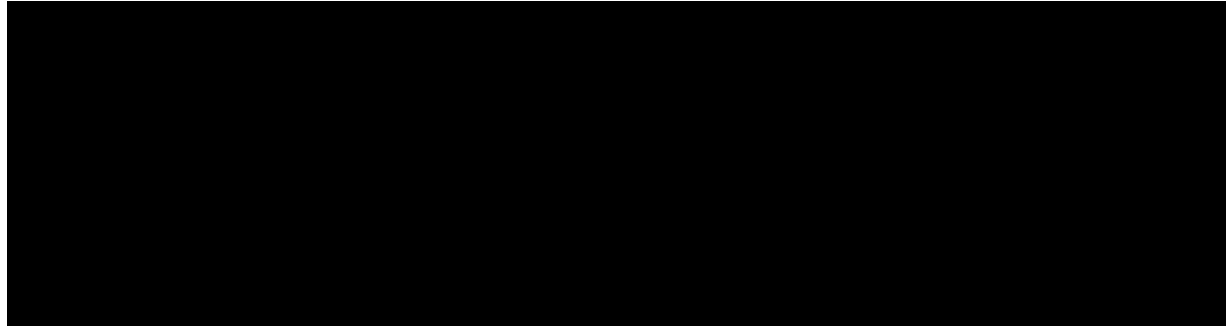
### 4.1 Letter regarding the use of ad trackers on public websites

The EDPB members were informed that this item was directed to the respective expert subgroups [REDACTED] for their consideration. The EDPB secretariat indicated that it will send the letter to the [REDACTED]

## Other points under miscellaneous

### - Spring conference

The Chair of the EDPB informed the EDPB members that at the next Spring Conference organised by Georgia, the EDPB will be represented by the commissioner of the FI SA.



### - Regulation (EU. Euratom) 2019/493

The Chair of the EDPB informed the EDPB members about the enter into force of the Regulation (EU, Euratom) 2019/493 on 25 March 2019 amending Regulation (EU, Euratom) No 1141/2014 as regards a verification procedure related to infringements of rules on the protection of personal data in the context of elections to the European Parliament. The Chair of the EDPB drew the attention to the newly inserted Article 10a which refers to decisions taken by supervisory authorities, and may be relevant especially with regard to the upcoming elections.

### - Joint event of Germany and EDPS

The DE SA informed the EDPB about the event organised by DE and EDPS on 9 July 2019 on the Data Protection and Competitiveness in the Digital Age.

### - Consistency opinion requests

The FR SA informed the EDPB members about its intention to launch a consistency procedure under Article 64.2 GDPR on specific issues related to complaints handling in case of a modification of the main establishment of a company. This request will be made in cooperation with the SE SA.

### - Other

- The Chair of the EDPB informed the EDPB members about her meeting with Ms Jourova on 9 April. She summarized the discussions they had about the next review of the Privacy shield (in September in the USA), the Electoral package and the assessment of the GDPR in 2020.
- ██████████ informed the EDPB about the fact that it is important to have rapporteurs for the analysis of the BCRs submitted for opinion of the EDPB by ██████████. The EDPB members are requested to inform the EDPB Secretariat on their intention to act as rapporteur on those BCRs before 25 April.
- ██████████ sked the EDPB members to inform each other when there is an intention to put an Article 64 GDPR request in the IMI system. This will allow to better anticipate the workload.
- The EDPS informed the EDPB members that the vacancy notice for the EDPS position will be published tomorrow in the Official Journal.
- The EDPS informed the EDPB members that it has launched an investigation to analyse the contract between Microsoft and EU institutions.
- The COM informed the EDPB members that it will organises an event on 13 June 2019 on the occasion of the first anniversary of the GDPR

- The COM informed the EDPB members about a vacancy notice for a seconded national expert position.
- The EDPB Secretariat informed the EDPB members about a new request for legal advice issued by the LIBE Committee regarding the ETIAS proposal for a Regulation, which was launched by the COM. The EDPB secretariat indicated that a written procedure will be launched in order to request a mandate for a given ESG to address the Parliament's request. The EDPB Secretariat will forward the received letter to all members.

## 5 Annex: Attendance list

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, IT SA, IS SA, LI SA, LT SA, LU SA, LV SA, MT SA, NL SA, NO SA, PL SA, RO SA, SE SA, SI SA, SK SA, UK SA

European Commission

EDPB Secretariat

### **Observers:**

AL, ME