



Final

5th Plenary meeting

4 & 5 December 2018, Albert BORSCHETTE Conference Centre, Rue Froissart 36,
1040 Brussels

1. Adoption of the minutes and the agenda

1.1 Minutes of the 4th EDPB meeting

The minutes were adopted with a change made in the section on observers. The words referring to the ePrivacy Directive for the EFTA EEA countries have been kept in the minutes.

1.2 Draft agenda of the 5th meeting

The draft agenda was adopted. Items 2.1, 2.2, 2.3, 2.6, 3.5.1, 3.5.2 of the agenda were declared confidential according to Art. 33 RoP.

The Chair of the Board informed the members about the intervention of Ms. Jourová around 3 o'clock.

Observers were present during the plenary meeting except for points 2.1, 2.2 and 2.6 of the agenda.

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

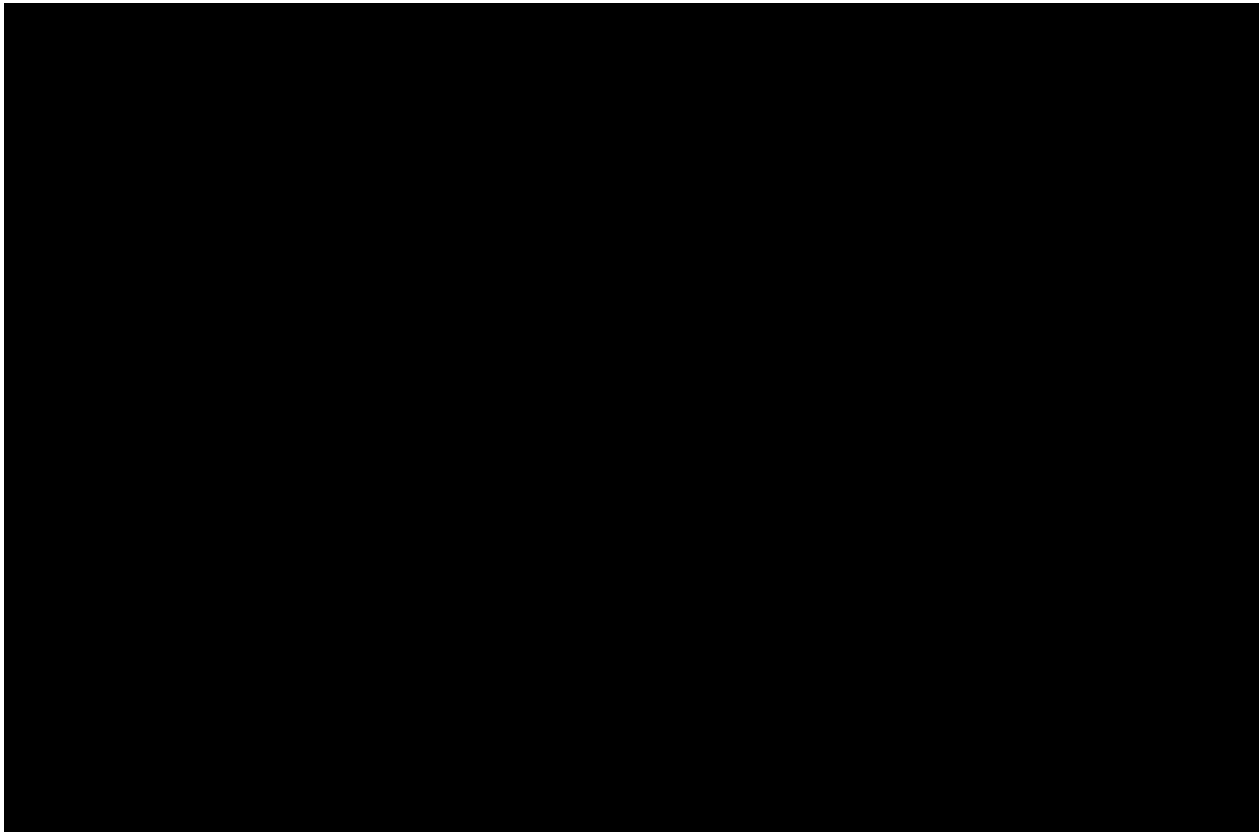
2.1. Opinion on the Commission's Japan Adequacy Decision – discussion and adoption

██████████ subgroups presented the EDPB draft opinion on the COM's draft decision on the EU – Japan adequacy. After discussions among the members, the EDPB adopted its opinion with 23 votes. One EEA EFTA SA was also in favour of the adoption of the opinion.

R Opinions on DPIA lists: ██████████ – discussion and adoption -

██████████

The lead rapporteur explained that the assessment of the 4 new list followed the same methodology that was used for the previous 22 lists that had been submitted to the EDPB for an opinion in accordance with Art. 64 GDPR. ██████████



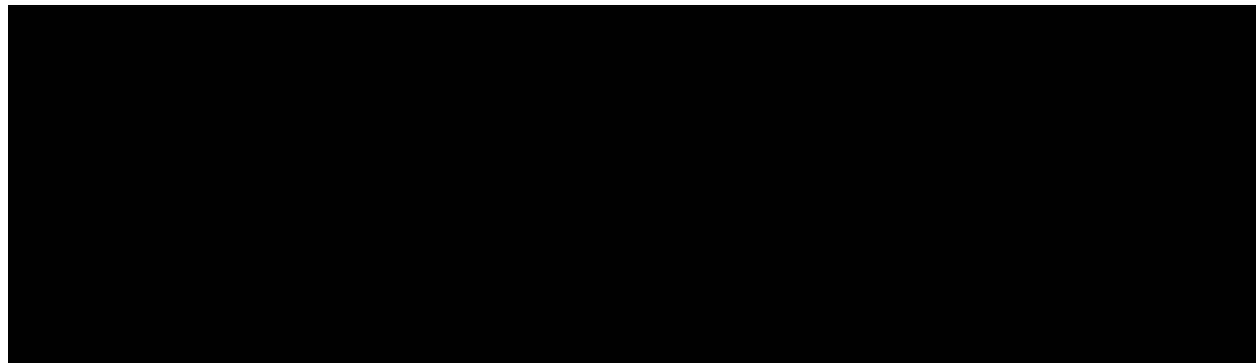
The four opinions were adopted unanimously by the members of the Board.

The Technology subgroup will work on the replies received regarding the other 22 DPIA opinions.

2.3 Reorganisation of the subgroups - discussion and adoption -

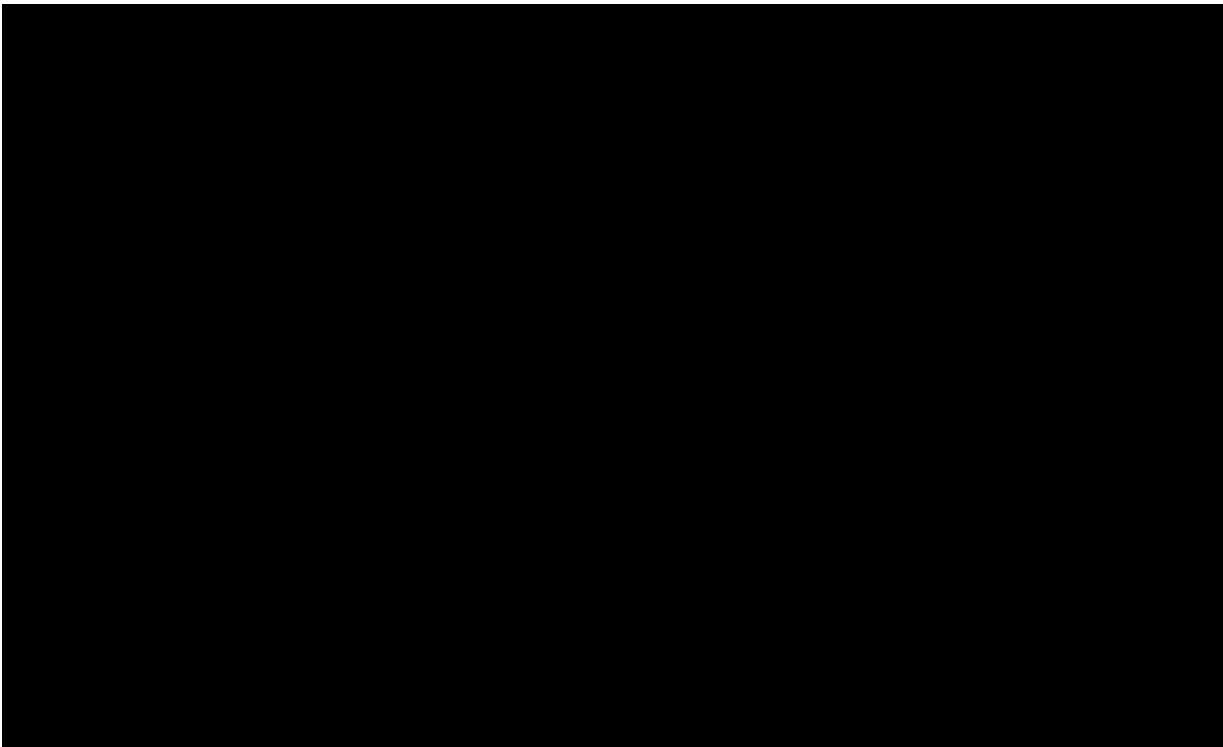
Based on EDPB members' contributions, the Chair team together with the EDPB Secretariat developed a compiled proposal paper, which was presented to the members of the EDPB. The members of the EDPB discussed this document during the last plenary meeting. The only remaining question concerned the respective mandate of the e-Government subgroup and the Technology subgroup.

A new name for the e-Government subgroup was adopted by the members of the Board: the Compliance, e-Government and Health subgroup.



The Chair of the Board reminded all members that there is a general obligation for all subgroups to cooperate.

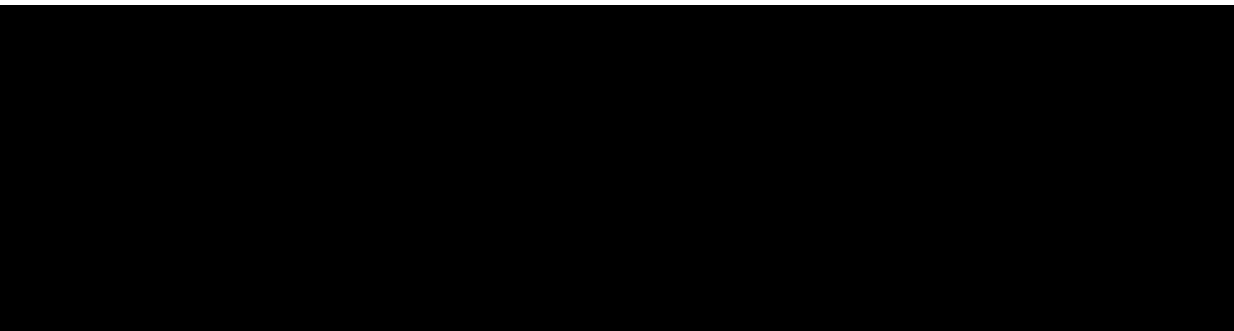
The EDPB members agreed that the "subgroups" should rather be called "expert subgroups" as provided by the RoP.



2.4 Guidelines on accreditation – discussion and adoption

The Article 29 Working Party adopted the Draft Guidelines on the accreditation of certification bodies under Regulation (EU) 2016/679 on 6 February 2018 (WP 261). The adopted draft guidelines on the accreditation of certification bodies were published for public consultation in February 2018. All comments and proposals received have been discussed. Some of the recommendations have been included in the revised draft of the guidelines.

These draft guidelines are complemented by a draft annex, providing guidelines on the “additional” accreditation requirements. This draft annex is a new document which has not been subject yet to public consultation.



The majority of the members of the Board (15) decided to launch a public consultation of the draft annex. One EEA EFTA SA was also in favour of this public consultation.

2.5 Guidelines on code of conduct – state of play and discussion

The Coordinator of the Compliance, e-Government and Health subgroup explained the current state of play of the guidelines. It is expected to have the guidelines ready for adoption in January or February

2019. The Board took note of the discussions and confirmed that the subgroup can continue its work on the basis of the agreed approaches.

2.6 Request for an Art. 64 GDPR Opinion on the interplay between GDPR and ePrivacy Directive – discussion and request for mandate for [REDACTED]

There are processing activities which may be tied to the material scope of the GDPR and the ePrivacy Directive respectively. While the interaction between the ePrivacy Directive and Directive 95/46 has already been addressed in previous WP29 guidance, questions have emerged regarding the competence of supervisory authorities to exercise their powers under the GDPR in cases where both the GDPR and national implementations of the ePrivacy Directive are applicable.

One member of the EDPB has requested an EDPB opinion on these questions concerning the interplay between the GDPR and the ePrivacy Directive as it considers that this concerns a matter “*of general application or producing effects in more than one Member State*” (Art. 64.2).

After discussions, the mandate was attributed to [REDACTED] as rapporteur with the discussions hosted within the Technology subgroup. Due to the complexity of the matter, it was also agreed that, in accordance with Art. 64.3, the period within which the opinion shall be adopted will be extended by a further six weeks, which would allow for timely adoption at the March 2019 Plenary.

3. FOR DISCUSSION AND/OR ADOPTION – Subgroups and Secretariat

3.1 Cooperation SG: International cooperation for the protection of personal data - Article 50 GDPR – state of play and discussion

The rapporteur explained the work done in relation with the application of Art. 50 GDPR. [REDACTED]

The Cooperation subgroup is in contact with the Commission to determine the respective role of the EDPB and the Commission in this regard.

The EDPB was informed that current rapporteur cannot continue to work on this matter in the future and the coordinator of the subgroup called for a new rapporteur.

3.2 BTLE SG: 5th Annual Review TFTP – COM letter – discussion

The Commission has invited the EDPB to participate at the next joint review of the TFTP agreement with the U.S. It will take place on 31 January and 1 February 2019 in Washington. The invitation is for two EDPB representatives, one of which has to be from Belgium, as foreseen in the TFTP agreement (SWIFT has its European headquarters in Belgium.)

The Board agreed on the two EDPB representatives: one from the [REDACTED] and one from [REDACTED]

4. Miscellaneous

- A member of the EDPB shared an update on Brexit. The Commission reminded the members of the EDPB about the seminar on Brexit for the 27 members on 5 December 2018, afternoon.
- A member of the EDPB informed the Board that its national law has been adopted on 5 December 2018.
- A member of the EDPB shared the state of play on the new 45/2001 regulation (now referred to as Regulation 2018/1725).
- The Commission reminded the members of the EDPB about the next meetings of the election networks involving SAs (21 January 2019 and 4 April 2019).

4. Attendance list

SAs of:

AT, BE, BG, CY, CZ, DE, DK, EDPS, EE, EL, ES, FI, FR, HR, HU, IE, IT, IS, LI, LT, LU, LV, MT, NL, NO, PL, RO, SE, SI, SK, UK

Further attendees:

- European Commission
- EDPB Secretariat

Observers:

AL, MD, MK