

Consultation Remarks to the EDPB

It is not clear that these guidelines have been subjected to any legal or technological review.

A brief perusal from section 131 (summary of methods) leads me to conclude that the guidelines may not be compatible with the law, i.e. EU 2016/679 particularly Article 32.

The reason for this is the guideline statement that the consideration of methods is only applicable 'at the time of considering' the methods and means of processing. This will likely result in processing which has only ever undergone that assessment once in its lifetime. This does not meet the requirement of Article 32 to consider the state of the art and technology for example.

Those developing systems which use pseudonymisation, which is a low strength form of cryptographic encoding, are obliged to keep their methods under frequent review being closer to especially the dangers presented by the evolving state of the art in breaking cryptography, for example the evolution towards quantum computing for that purpose.

Thus post quantum secure methods of pseudonymisation ought to be considered at this time, but do not receive any mention at all.

Apple Inc recently announced some new globally available features using technological obfuscations based on purported post quantum secure algorithms, although there are no corresponding institutional (EU or otherwise) standardisation efforts or initiatives.

The guidelines thus fall very far short of summarising the state of the art in methods, for the purposes of Article 32 GDPR or otherwise.