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European Data Protection Board

Comments on the Public Consultation regarding Guidelines 01/2025 on Pseudonymisation
Below, please find the comments submitted to the public consultation on Guidelines 01/2025 on Pseudonymisation (Guidelines), prepared by the European Data Protection Board (EDPB).

Should you have any questions concerning the addendum to the submitted comments, please contact Sano employee Michał Kosobudzki at m.kosobudzki@sanoscience.org.

Comment on Paragraph 18 of the Guidelines

We request that the guidelines also address the situation of controllers who do not perform pseudonymisation transformation by themselves but process data that has been pseudonymised by another controller (pseudonymising controller).

Rationale

The Guidelines do not sufficiently consider the position of controllers who receive or obtain pseudonymised data without access to the additional information (pseudonymisation secrets) . While Paragraph 49 of the Guidelines acknowledges that pseudonymisation by one controller benefits data recipients, including other controllers, it does not provide analysis of their (not pseudonymising controllers) specific legal and operational circumstances. Given that their processing activities are equally significant, we believe that the Guidelines should explicitly address this issue.

In light of the above, we request that the Guidelines be expanded to include an analysis of controllers who process already pseudonymised data, not solely those who perform the pseudonymisation. In particular, we propose that the revised Guidelines (minimal scope):

- Distinguish between controllers who process only pseudonymised data without ever obtaining an identification key or additional inforamtion, whether in the form of decryption mechanisms or reference tables containing complete data.
- Provide guidance for such controllers on the interpretation of Recital 26 of the General Data Protection Regulation (GDPR), specifically regarding whether they are processing pseudonymised personal data and under what conditions may be considered as anonymised.

Comment on Paragraph 22 of the Guidelines

We request that the Guidelines clearly define the conditions under which the requirement of non-attributability is considered fulfilled and clarify when data can be deemed fully anonymised.

Rationale

The final sentence of Paragraph 22 refers to specific requirements (for anonymisation) but does not explicitly state what these requirements are, nor does it provide a reference that would enable controllers to determine the criteria for achieving anonymisation. Furthermore, the subsequent sections of the Guidelines fail to specify the conditions under which a particular data transformation can be classified as anonymisation.

Proposed Additions to the Guidelines

1. **Clarification on the Interpretation of Recital 26 of the GDPR**
   We propose the inclusion of specific provisions elaborating on the interpretation of Recital 26.

   Rationale:
   Recital 26 plays a critical role in delineating the boundary between pseudonymisation and anonymisation. Given that it is part of the GDPR's preamble rather than its articles, its interpretation remains subject to debate. Since the European Data Protection Board (EDPB) has not issued dedicated guidelines on anonymisation, it would be beneficial for the Guidelines on pseudonymisation to provide additional clarity on this matter.

2. **Reference to Article 29 Working Party Opinion 05/2014 on Anonymisation Techniques (Opinion)**
   We request that the Guidelines explicitly reference the Opinion previously issued by the Article 29 Working Party.

   Rationale:
   While the EDPB has not officially endorsed the Opinion 05/2014 on Anonymisation Techniques developed by the Article 29 Working Party, these document remain a valuable Prevailing legal opinion resource in distinguishing between pseudonymisation and anonymisation. Although they predate the GDPR, they provide important insights that should

be acknowledged in the current Guidelines. A reference to these guidelines would enhance legal certainty and contribute to a more comprehensive understanding of the subject matter.