

Minutes



Final

38th Plenary meeting

14 September 2020, Remote

Some points have been redacted from these minutes as their publication would undermine the protection of one or more of the following legitimate interests, in particular: the public interest as regards international relations; the privacy and integrity of the individual regarding the protection of personal data in accordance with Regulation 2018/1725; the commercial interests of a natural or legal person; ongoing or closed investigations; the decision-making process of the EDPB, in relation to matters upon which a decision has not yet been taken and/or the decision-making process of the EDPB, in relation to matters upon which a decision has been taken.

1 Adoption of the minutes and of the agenda

1.1 Minutes of the 37th EDPB meeting – adoption

The EDPB Secretariat explained how the guidance on the drafting of the minutes was applied to these draft minutes. The EDPB Secretariat invited the EDPB members to consider making an exception in order to include certain names of individuals, where this related to information already public available.

The minutes of the previous plenary meeting were adopted unanimously with the changes proposed and circulated prior to the meeting, however with the inclusion of the names of individuals as discussed in the meeting. The members also agreed on the public version of the minutes.

1.2 Draft agenda of the 38th EDPB meeting – adoption

The draft agenda was adopted with the inclusion of a new point under AOB.

1.3 Appointment of the new Commissioners of the Italian and Czech DPAs – information

The Chair of the EDPB welcomed the new Commissioner of the Italian SA. The new Commissioner addressed the EDPB members.

The Chair of the EDPB welcomed the new Commissioner of the Czech SA. A message from the new Commissioner of the Czech SA was relayed to the EDPB members.

1.5 Information regarding the exchange of views with the LIBE Committee on the recent CJEU Schrems II judgment – information

The Chair of the EDPB informed the EDPB members of her participation in a meeting held by the LIBE Committee on 3 September 2020 to exchange views on the CJEU Schrems II judgment.

On the ongoing work of the EDPB on this topic, the EU COM expressed the view that practical guidance is needed on all relevant aspects of the CJEU Schrems II judgment. This should include guidance clarifying the relevant circumstance surrounding the transfers: which factors, elements etc. should be considered as this informs the controllers' or processors' assessment of whether "appropriate safeguards" transfer mechanisms can be relied on and whether supplementary measures are needed. The EU COM underlined the fact that the guidance also aims to inform the SAs while making enforcement actions, in addition to assisting companies in their compliance efforts. The EU COM takes the view that a stakeholder consultation is needed on the guidance on these matters.

1.6 Sharing information on salient topics escalated in public sphere.

The Chair of the EDPB explained the steps taken by the EDPB following press articles in order to ensure all SAs had a common understanding on their contents as well as to support a shared strategy towards the media. The EDPB Chair pointed out that the Board is in charge to promote cooperation and that EDPB external communication falls under responsibility of the EDPB Chair, supported by the EDPB Secretariat.

The EDPB members discussed the scope of information that should be shared with the CSAs (in the sense of Art. 60.3 GDPR) as well as the appropriate time when certain information should be shared in light of all circumstances. Several EDPB members expressed the view that relevant information should be shared also before a draft decision is ready. A member raised the need for the EDPB to provide for more clarification on the scope of relevant information under art. 60 GDPR. A member also reminded the meeting of the independence of supervisory authorities under the GDPR in the performance of their functions.

2 Current Focus of the EDPB Members

2.1 Task force for 101 complaints - state of play and proposed roadmap (discussion)

The rapporteur informed the EDPB about the first meeting of the task force for 101 complaints.

Each SA is requested to appoint a contact point to be kept informed of the discussions within the task force.

The taskforce will continue its work in order to achieve a consistent approach of the complaint cases.

2.2 Art. 64.2 opinion request by FR SA on an Art. 46.3(b) administrative arrangement between the French auditor oversight authority (H3C) and the PCAOB (confirm mandate for rapporteur) - **discussion and adoption**

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

3.1 Enforcement ESG

3.1.1 Coordinated Enforcement Framework - **discussion and adoption**

The rapporteur presented the state of play of the file and the work carried out within the ENF ESG.

The proposal is intended to lay down a flexible framework for annual coordinated action on a topic decided by the EDPB.

The EDPB members adopted the proposal in principle, with 26 EU SAs and 3 EEA EFTA SAs in favour, while 1 EU SA abstained.

The EDPB defers the adoption of the proposal to the next plenary.

3.1.2 Exchange of Information in Relevant Cases - **discussion**

The coordinators of the ENF ESG reported on the work done within the ENF ESG on criteria for selecting cases to be shared with the other SAs for information. Where relevant, the EDPB will be briefed on the outcome of the discussions on cases.

The EDPB members took note of the work done.

3.2 RoP Drafting Team - Publication of internal guidance on the drafting of plenary minutes – **discussion and adoption**

The rapporteur presented the work done to finalise the wording of the document and explained that a general disclaimer will be added to the minutes stating that parts may be redacted/left out and the reasons.

The EDPB members decided to name the document “EDPB Guidance on its plenary minutes“

In light of the experience with preparing the minutes of the previous EDPB plenary minutes, the EDPB Secretariat proposed including an exception to the principle of not mentioning names of individuals, namely where the name relates to information already public available or to a public figure insofar as the information is not private.

The EDPB members adopted the changes proposed unanimously. The EDPB members decided to publish the guidance.

3.3 Cooperation ESG - Administrative cooperation between EU and Supervisory Authorities in third countries - **written state of play**

The EDPB members took note of the written state of play.

4 AOB

4.1 Date of October plenary meeting

After discussion, a short plenary meeting will be held on 7 October 2020 in order to discuss one file before the legal deadline expires. The plenary meeting on 8 October 2020 is maintained.

The EDPB decided to cancel the in person meeting scheduled in Brussels in October 2020.

4.2 FR SA - new cookie guidelines

The FR SA informed the EDPB that new FR cookie guidelines will be issued before the next plenary meeting. As soon as a translation into English is available this will be shared with the EDPB.

Annex: Attendance List

SAs: 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, 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

- European Commission

- EDPB Secretariat