



Final

55th Plenary meeting

24 September 2021, 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, Information given by the Chair

1.1 Draft agenda of the 55th EDPB meeting – adoption

The draft agenda was adopted with the inclusion of new points in AOB: CEH ESG - call for rapporteurs and EDPS conference.

The discussion relating to agenda points 2.1 was declared confidential according to Art. 33 EDPB RoP.

2 Current Focus of the EDPB Members

2.1 [BTLE/ITS] Opinion on the South Korea (KR) adequacy decision under the GDPR – discussion and adoption

The lead rapporteurs presented the EDPB opinion on the European Commission's draft implementing decision on the adequate protection of personal data in the Republic of Korea pursuant to the GDPR.

In preparing the opinion, the EDPB assessed the draft decision and the accompanying documentation provided, and referred to the GDPR Adequacy Referential¹ endorsed on 25 May 2018. The availability of the European Commission to provide all relevant information and answer technical questions to the ITS and BTLE ESGs was appreciated throughout the drafting process.

Several members raised that the adequacy opinions ought to focus in first instance on the legal framework of the third country as it exists, bearing in mind the potential changes that might be made to it in the future. After discussion, the EDPB members agreed to revise two paragraphs related to the composition of the Personal Information Protection Commission (PIPC) and the rules governing the appointment of its members in order to clearly focus on the current framework. After discussion the EDPB members also agreed to revise one paragraph about the sanctioning powers of the PIPC.

The lead rapporteur of the BTLE drew the EDPB members' attention to the wording in the draft opinion about the complaint referral mechanism provided for in the draft implementing decision, i.e. that EU individuals may submit a complaint to the PIPC through their national data protection authority or the EDPB. The EDPB advocates that such a referral mechanism is channelled through the European national data protection authorities rather than through the EDPB as they are competent and closer to the handling of the individual complaints.

The European Commission expressed appreciation for the work done in preparing the opinion, and in particular for the attention it affords to positive aspects of the Korean legal framework - thus going beyond an enumeration of concerns with the draft decision.

The EDPB members unanimously adopted the opinion, with the modifications agreed in the meeting.

2.2 Cooperation on the complaints by NYOB on the issue of cookies and dark patterns – request for mandate for a Taskforce

The rapporteur presented the request for mandate for the creation of a taskforce to foster cooperation between authorities for the management of the different complaints introduced by NOYB in different Member States.

The request for mandate laid out the following tasks: exchange views on the legal analysis and possible infringements; to provide a common documentation to support national actions undertaken by the concerned SAs; to synchronise communication.

The rapporteur recalled that the complaints on cookie banners at least in part relate to article 5(3) of the ePrivacy Directive. For this reason, supervisory authorities' participation in the activities of the taskforce is without prejudice to their competences. Article 70(1)(u) GDPR serves as legal basis for the creation of the taskforce, for the purpose of promoting cooperation, and sharing information and best practices between the SAs.

The EDPB members created the cookie banner taskforce by adopting the mandate unanimously, Three SAs volunteered as co-rapporteurs.

¹ Article 29 Working Party, WP254, Adequacy Referential, 6 February 2018.

3 AOB

3.1 CEH ESG - call for rapporteurs

The coordinator recalled that the CEH ESG has prepared a significant number of EDPB opinions in the past year, in particular on the requirements for accreditation of certification bodies and for the accreditation of code of conduct monitoring bodies. This would not have been possible without the effort of the rapporteurs and the support of the EDPB Secretariat, which drafted most of them.

The CEH coordinator calls upon to at least 1 additional SA to volunteer as co-rapporteur to allow work to progress on a different topic, namely a first EDPB opinion on an SA's draft national approval of certification criteria.

One SA volunteered as co-rapporteur.

3.2 EDPS conference

The EDPS will host a conference in Brussels in 16-17 June 2022 on the topic of "The future of data protection: effective enforcement in the digital world".

The conference aims to reflect on developments in the domain, notably in light of current COM initiatives in several areas, among which the digital package. All SAs are invited to give input to the EDPS on elements for reflection.

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