



Final

76th Plenary meeting

28 February 2023, Remote

## 1 Adoption of the minutes and of the agenda, Information given by the Chair

### 1.1 Draft agenda of the 76th EDPB meeting – adoption

The draft agenda was adopted with the inclusion of three new points under AOB (3.1 FRA project on experiences of the data protection authorities, 3.2 EU-US negotiations on the agreement on electronic evidence and 3.3 Communication on the EDPB opinion on the EU-US Data Privacy Framework).

The discussions relating to agenda point 2.1 were declared confidential according to Art. 33 EDPB RoP.

## 2 Current Focus of the EDPB Members

### 2.1 Opinion on the European Commission Draft Implementing Decision on the adequate level of protection of personal data under the EU-US Data Privacy Framework – discussion and adoption

The rapporteurs presented the draft opinion which was prepared and carefully scrutinised by two expert subgroups (ITS and BTLE ESGs). The rapporteurs also explained all changes made in the document following the discussion during the Strategic advisory ESG meeting on 23 February 2023 and presented the remaining discussion points for a decision by the EDPB members.

The EDPB members discussed the opinion and agreed on several modifications in the text of the opinion (including its executive summary) during the meeting. Next, the EDPB members discussed the link between the adoption of the internal policies and procedures by US intelligence agencies and the entry into force or adoption of the adequacy decision. The EDPB agreed that it would welcome that not only the entry into force, but also the adoption of the decision are conditional upon inter alia the adoption of updated policies and procedures to implement EO 14086 by all US intelligence agencies. The EDPB members also agreed to recommend to EU COM to assess these updated policies and procedures and share this assessment with the EDPB. Finally, the EDPB members discussed the last

paragraph of the executive summary and agreed that it should refer to the introduction of the principles of necessity and proportionality and the individual redress mechanism for EU data subjects as substantial improvements offered by EO 14086 compared to the previous legal framework.

The opinion (including its executive summary), as modified during the meeting, was adopted by the members of the EDPB unanimously.

## 3 AOB

### 3.1 FRA project on experiences of the data protection authorities

EU COM informed the EDPB members about the on-going project of the Fundamental Rights Agency (FRA), which will provide evidence-based advice on the experiences of data protection authorities to feed the process of the next evaluation report of GDPR by EU COM which is due by mid-2024. EU COM encouraged the EDPB members to participate in related interviews to be conducted by FRA, clarifying that these interviews will be confidential.

### 3.2 EU-US negotiations on the agreement on electronic evidence

EU COM shared an update on the negotiations on the EU-US agreement to facilitate access to electronic evidence in criminal investigations.

### 3.3 Communication on the EDPB opinion on the EU-US Data Protection Framework

The EDPB members discussed public communication following the adoption of the EDPB opinion. The Chair of the EDPB underlined that the standard practice for public communication and press releases following the EDPB plenary meeting will be followed.

## 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