



Final

101th Plenary meeting

16 January 2025, 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.

I. Adoption of the minutes and of the agenda, Information given by the Chair

I.1. Minutes of the 99th EDPB meeting – adoption

The EDPB Deputy Chair underlined that, in absence of the EDPB Chair, he will chair the meeting of today. The minutes were unanimously adopted with the modifications proposed.

The members of the EDPB also agreed on the public version of the minutes.

I.2. Draft agenda of the 101th EDPB meeting – adoption

The draft agenda was adopted unanimously without modifications.

The discussions relating to agenda point B.1.5 were declared confidential in accordance with Art. 33 EDPB RoP.

A. Agenda items for adoption

The Chair introduced the A item for adoption:

A.1. Opinion on the draft decision of the French SA regarding the Controller Binding Corporate Rules of the Coface Group (International Transfers ESG)

There was no request to discuss the proposed A item and it was adopted unanimously.

Adopted: 11/02/2025

B. Agenda items for discussion

B.1. Agenda items for discussion in view of adoption

B.1.2 Guidelines on pseudonymisation (Technology ESG)

The Chair introduced the item by recalling that these guidelines have been prepared in parallel with the anonymization guidelines, which are still an ongoing work.

The lead rapporteur recalled the original mandate and the background of the file, and presented the main focus of the guidelines.

One member noted that the pending CJEU case C-413/23 P and the upcoming Opinion of the Advocate General should be taken into account in the process of adopting these Guidelines. It was agreed that, while this case did not require the publication of these Guidelines to be delayed, the EDPB will take special note of this case and whether it requires the Guidelines to be revised.

The EDPB members unanimously adopted the guidelines and decided to launch a public consultation of six weeks.

B.1.3. EDPB position paper on the interplay of competition law and data protection (Task Force on Competition and Consumer Law)

The Chair introduced the item and recalled that this paper was included in the Task Force on Competition and Consumer Law's 2024 work programme. He further noted that this will be the last item from the taskforce as it became the Cross-regulatory Interplay and Cooperation Expert Subgroup (CIC) on 1 January 2025.

The lead rapporteur presented the position paper, developed in consultation with the European Competition Network (ECN). The EDPB's intention is to focus on data protection issues and the lead rapporteur emphasised that the paper does not cover issues that fall within the remit of competition authorities. A hearing with the ECN took place in December and input from competition law authorities was sought on the topic.

A member announced that, while many of the comments it shared at subgroup level were already implemented and it fully shared the core message of the need of cooperation between different types of regulators, it would abstain for the voting. This member underlined the risk that, if DPAs need to rely on market dominance analysis under article 102 TFEU in assessing the free consent, it may add a lot of time in the enforcement action depending on the reaction of the relevant competition authority. They fear this statement would create the impression that DPAs must always include a dominance analysis in data protection investigations. Participants discussed the fact that assessment of market dominance needs to be done by competition authorities and that, while it says that these analyses can be taken into account, this position paper should not be interpreted as saying that they are a necessary part of enforcement actions.

An EDPB participant proposed a change of wording which was approved by all EDPB members.

25 EU members voted in favour; 1 EU member abstained. The EEA SAs expressed their position, with 3 EEA SAs in favour. The EDPB adopted the position paper.

B.1.4 Draft mandate on the update of the Guidelines on Data Protection Officers (Key Provisions ESG)

The Chair introduced the item. He recalled that, in January 2024, the EDPB adopted a report on the findings of the second Coordinated Enforcement Framework on the position and designation of DPOs

and national reports, and that one of the recommendations in this report was to update the guidelines on DPOs prepared by the Article 29 Working Party and endorsed by the EDPB in 2018.

The lead rapporteur presented the request for mandate and its goal of reflecting the latest case-law, best practices, and views reflected in additional guidance issued or enforcement actions taken at national level. The lead rapporteur identified the second quarter of 2026 as the target for adoption.

The EDPB members adopted the mandate unanimously and agreed to have a public consultation once the document is adopted.

B.1.5 Coordinated Enforcement Framework Action 2024 on the implementation of the right of access by data controllers (Enforcement ESG)

The Chair introduced the matter. In 2024, the Coordinated Enforcement Framework (CEF) was dedicated to the topic of ‘the implementation of the right of access by controllers’. Thirty DPAs participated, gathering contributions from 1185 controllers. A report was produced which identifies the main challenges and recommendations.

The co-rapporteurs ([REDACTED]) presented the report. The EDPB Secretariat underlined that the annex consolidates the different national reports.

The methodology and figures were illustrated by the [REDACTED]. Amongst the thirty participating SAs, eleven SAs have carried out audits. Private and public controllers were equally represented. Positive findings and challenges/lack of awareness were underlined, as well as recommendations to controllers, SAs and the EDPB.

An EDPB press release was scheduled to be published soon after the plenary meeting. SAs were asked to wait for the publication of this press release before publishing their own to ensure a coordinated communication on the adopted report.

The EDPB members adopted the report and agreed to publish it on the EDPB website.

B.2. Agenda items for discussion

B.2.1 Support Pool of Experts (SPE) report on bias and data subjects’ rights in AI (Technology ESG)

The Chair introduced the work done in the context of the Support Pool of Expert (SPE) on Bias and Data Subject’s Rights in AI. A project was commissioned at the end of 2023 at the request of the DE Federal SA. The DE SA presented the conclusions of the report.

The EDPB members took note of the report and decided to publish it.

C. Organisational matters

C.1. CEH ESG windows’ approach for Article 64 Opinions on accreditation requirements, certification criteria and codes of conduct (Compliance, E-Government and Health ESG)

The Chair introduced the item. The general mandate of the CEH ESG includes Article 64 Opinions on accreditation, certification criteria, and codes of conduct. The CEH ESG members proposed to continue the current practice of the “windows approach”, which entails a calendar for the launching of new requests of opinions within the subgroup. This functioned well and allowed to streamline the work of the CEH ESG while ensuring opinions’ quality.

The EDPB Secretariat outlined the CEH ESG’s proposal of the calendar for Article 64 opinions for 2025. The EDPB Secretariat suggested that, if the members would support this process, it could simply

provide members with information about the dates and a retro planning through a written state of play for 2026 and after, without the need to have a formal decision at plenary level.

The EDPB members agreed with the proposed approach for 2025 and beyond.

D. Agenda items for information

D.2. Updates from EDPB participants

D.2.1. OSS case digest on the right of access (SPE Group – Speaker: EDPB Secretariat)

The Chair introduced the project, which was carried out as part of the Support Pool of Experts (SPE). A case digest was commissioned with an external legal expert to summarize the relevant one-stop-shop (OSS) decisions regarding the right of access. The topic of “right of access” was selected as it could also be used in the framework of the Coordinated Enforcement Framework carried out on the same topic.

The EDPB Secretariat presented the OSS case digest on the right of access commissioned to a Law professor from the University of Copenhagen and invited the members to share this report internally in their SA. The report will be published on the EDPB website OSS Decisions page.

The EDPB members took note of the information given.

D.3. Any other business

D.3.1. “European Year of Digital Citizenship Education 2025” from the Council of Europe

The FR SA updated the EDPB members on the programme named “European Year of Digital Citizenship Education 2025” from the Council of Europe.

The Council of Europe has designated 2025 as European Year of Digital Citizenship Education. It is an opportunity for the SAs to show that they are raising awareness on data protection matters relating to digital citizenship education. In this context, the FR SA underlines three upcoming events on 23 – 24 January 2025 in Strasbourg, on 27 – 28 May 2025 in Strasbourg and on 18 – 19 November 2025 in Ljubljana. The FR SA indicated their availability to other members, in case they wanted to exchange on this matter.

The EDPB members took note of the information given.

D.3.2. CJEU judgment in case C-604/22: Follow up before the national court

The BE SA provided information on the CJEU judgment in case C-604/22 and its follow up before the national court. The CJEU judgment was issued in February 2022 and clarified the role of IAB and its responsibility extending to the subsequent processing of data carried out by third parties. Last week, there was a hearing before the national court which will decide on the case on 19 March 2025.

The EDPB members took note of the information given.

D.3.3. Request for a preliminary ruling submitted before the CJEU: “Bisdrom Gent v GBA”

The BE SA provided information to the EDPB members on a request for a preliminary ruling to the CJEU by submitted by a Belgian court in *Bisdrom Gent v GBA*. There is no case number yet. The national case concerns whether the GDPR fully applies to the baptism register of the Catholic Church, and the questions before the CJEU would address the balancing of the rights to data protection and other fundamental rights, including the freedom of religion.

The EDPB members took note of the information given.

D.3.4. CJEU judgement in case C-416/23

The AT SA informed the members on the CJEU judgement in case C-416/23 relating to the concept of excessive requests under Article 57(4) GDPR and underlined its importance for the work of all SAs and the EDPB.

The EDPB members took note of the information given.

Annex: Attendance List

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

Observers:

- AL SA, XK SA, GE SA. In line with Art. 8 of the EDPB RoP, the observers were present during the plenary meeting.

EDPB Secretariat