

Ms. Estelle Massé
Senior Policy Analyst
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19 May 2021

Sent by email only

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RE: Clarification on the process to identify a controller's main establishment under the GDPR

Dear Ms Massé,

I would like to thank you for your letter of 9 April 2021 outlining your questions in relation to the Article 29 Working Party Guidelines for identifying a controller or processor's lead supervisory authority endorsed by the European Data Protection Board.

The importance of the efficient functioning of the cooperation and consistency mechanism is reflected in the EDPB Strategy 2021- 2023 as well as in the current EDPB work program.

The Guidelines for identifying a controller or processor's lead supervisory authority were adopted on 13 December 2016 following careful consideration of relevant factors for the determination of the main establishment and revised and adopted on 5 April 2017 by the members of the WP29. The EDPB members then agreed upon the endorsement of the revised version on 25 May 2018. As is the case with all guidance by the EDPB, we are permanently monitoring the necessity of reviewing also these guidelines and incorporating additional factors, and we will do so, if necessary.

While the EDPB cannot comment on possible ongoing investigations by its members, I would like to inform you that the Internal Market Information System (IMI), an information and communications system which facilitates the exchange of information between supervisory authorities for the GDPR cooperation and consistency procedures, does specifically enable any supervisory authority to express its views on competence at an early stage of such procedure launched by the supervisory authorities and/or initiate the dispute resolution mechanism as per Art. 65 GDPR.

The one-stop-shop mechanism ensures that the lead supervisory authority responsible for investigating cases against a particular controller considers the input of any concerned supervisory authority. The European Data Protection Board cannot make any statements regarding the main establishment of a particular controller, unless, for instance, it takes place within the framework of the dispute resolution mechanism (Art. 65 GDPR). Moreover, the competence to carry out investigations, according to Article 58.1 GDPR, is reserved for the national supervisory authorities.

Yours sincerely,



Andrea Jelinek

Andrea Jelinek
Chair of the European Data Protection Board

rue Wiertz, 60
1047 Brussels