

# Rules of procedure



## **EUROPEAN DATA PROTECTION BOARD**

### **RULES OF PROCEDURE**

Version 3

Adopted on 25 May 2018

As last modified and adopted on 10 September 2019

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## **PREAMBLE**

### **THE EUROPEAN DATA PROTECTION BOARD,**

Having regard to Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and in particular Article 72(2) thereof,

having regard to Directive (EU) 2016/680 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data, and repealing Council Framework Decision 2008/977/JHA,

having regard to the EEA Agreement and in particular to Annex XI and Protocol 37 thereof, as amended by the Decision of the EEA Joint Committee No 154/2018

whereas:

(1) The protection of natural persons in relation to the processing of personal data is a fundamental right enshrined in Article 8 (1) of the Charter of Fundamental Rights (the “Charter”) and Article 16 (1) of the Treaty on the Functioning of the European Union.

(2) Regulation (EU) 2016/679 (the “GDPR”) provides for the establishment of an independent body of the Union, referred to as the European Data Protection Board, responsible for ensuring the consistent application of the GDPR and for promoting cooperation between supervisory authorities throughout the Union.

(3) The GDPR also provides for the tasks of the Board, for the Chair and deputy chairs, and the secretariat.

(4) Directive (EU) 2016/680 (the “Police and Criminal Justice Data Protection Directive”) provides for additional tasks for the Board, for the Chair and deputy chairs, and the secretariat.

(5) Regulation 45/2001 (to be revised) provides for rules on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data.

(6) Other provisions of Union law may provide for additional tasks for the Board.

(7) The EEA Agreement incorporated the GDPR and provides that the supervisory authorities of the EFTA EEA States and the EFTA Surveillance Authority shall participate in the activities of the Board and the rules of procedure of the European Data Protection Board shall give full

effect to this participation. While not having the right to vote, EFTA EEA supervisory authorities shall have the right to express their positions on all items discussed and / or voted.

**HAS ADOPTED THE FOLLOWING RULES OF PROCEDURE:**

**TITLE I – The BOARD**

**Article 1 – Identity**

The European Data Protection Board (the “Board”) is an EU body with legal personality that shall act independently when performing its tasks or exercising its powers. The Board is established in Brussels where all principal activities shall take place.

**Article 2 – Missions**

The Board shall ensure the consistent application of the GDPR and shall also ensure the performance of the tasks mentioned in the Police and Criminal Justice Data Protection Directive and other applicable legislative instruments under EU law.

**Article 3 – Guiding principles**

**Principle of independence and impartiality**

In accordance with the *principle of independence* enshrined in Article 69 GDPR, the Board shall act impartially and in complete independence when performing its tasks or exercising its powers.

**Principles of good governance, integrity and good administrative behaviour**

In accordance with the *principles of good governance, integrity and good administrative behaviour*, the Board shall act in the public’s interest as an expert, reliable and authoritative body in the field of data protection with good decision-making processes and sound financial management.

**Principle of collegiality and inclusiveness**

In accordance with the *principle of collegiality and inclusiveness*, and pursuant to the provisions of the GDPR and the Police and Criminal Justice Data Protection Directive, the Board shall be organised and shall act collectively as a collegiate body.

**Principle of cooperation**

In accordance with the *principle of cooperation*, the Board shall promote cooperation between supervisory authorities and endeavour to operate where possible by consensus, and subject to the GDPR and the Police and Criminal Justice Data Protection Directive.

### **Principle of transparency**

In accordance with the *principle of transparency*, the Board shall operate as openly as possible so as to be more effective and more accountable to the individual. The Board shall explain its activities in a clear language which is accessible to all.

### **Principle of efficiency and modernisation**

In accordance with the *principle of efficiency and modernisation*, the Board shall operate efficiently and as flexible as possible so to achieve internally the highest level of synergies among its members. The efficiency and modernisation principle shall be realised by using new technologies to help bring efficiencies to current working methods such as the minimisation of formalities and providing efficient administrative support.

### **Principle of proactivity**

In accordance with the *principle of proactivity*, the Board shall, acting on its own initiative, anticipate and support innovative solutions to help overcome digital challenges to data protection. Thus ensuring by means of the effective participation of stakeholders (members, observers, staff and invited experts), that real-life needs and aspirations are fully taken into account.

## **TITLE II – COMPOSITION**

### **Article 4 – Membership and Participation**

1. The Board shall be composed of the head of one supervisory authority of each Member State and EFTA EEA State or the joint representative pursuant to Article 68 (4) GDPR, and the European Data Protection Supervisor (the “EDPS”), or their respective representatives (hereinafter “the members”). As to the activities of the Board relating to the GDPR, EFTA EEA supervisory authorities shall have the same rights and obligations as supervisory authorities of the EU Member States, except for the right to vote and to stand for election as chair or deputy chairs or unless otherwise provided in these rules. They shall have the right to express their positions on all items discussed and/or voted.
2. The European Commission (the “Commission”) shall have the right to participate in the activities of the Board without voting rights and shall designate a representative. The EFTA Surveillance authority shall have the right to participate without voting rights to the activities of the Board relating to the GDPR and shall designate a representative.
3. Where in a Member State there is more than one supervisory authority responsible for monitoring the application of the provisions pursuant to the GDPR, the Police and Criminal Justice Data Protection Directive, or any other EU applicable law, in accordance with national laws, a joint representative shall be designated. The same applies to EFTA EEA

supervisory authorities responsible for monitoring the application of the provisions pursuant to the GDPR.

4. In the absence of the head of a supervisory authority at meetings of the Board, representatives shall be designated by their respective supervisory authorities and shall be entitled to attend and participate with voting rights. The joint representative may be accompanied by the head of another supervisory authority of their State or its representative, who could also act as a representative pursuant to the first sentence of this paragraph of these Rules of Procedure, as necessary in accordance with that Member State's law.
5. The heads of national supervisory authorities, the EDPS or their representatives as well as representatives of the Commission and the EFTA Surveillance Authority may be assisted by their staff members. The number of staff members per delegation attending the meetings should be limited to the minimum necessary taking into account the importance and variety of issues to be addressed.

#### **Article 5 – Appointment and term of office of the Chair and deputy chairs**

1. The Board, through secret ballot, elects a Chair and two deputy chairs by simple majority of members entitled to vote that are present or represented through delegation according to Art 22 (5) of the Rules of Procedure.
2. The term of office of the Chair and of the deputy chairs shall be five years, starting from the date of their respective election. The chair and deputy chairs may be reelected once for a further five years.
3. At least two months before the end of the mandate of the Chair or the deputy chairs, the secretariat shall call for the elections to replace the outgoing member.

When the mandate finishes for the reasons set out in Article 6, the secretariat shall convene for elections no later than one week after the communication provided for in paragraph 6 (1) or after the dismissal provided for in paragraph 6 (2).

4. Candidates shall be submitted to the secretariat and to the Chair in writing at least 1 month before the election. The secretariat shall circulate the list of candidates to the members no later than three weeks before the election.
5. If only one candidate is presented for the position of the Chair or of the deputy chair, the candidate shall be elected provided that they receive the support of the simple majority. Should the candidate not receive that support in the first round, or in cases where there is more than one candidate and there is no majority for one candidate, the vote should be

repeated. If there is no simple majority supporting the only or any candidate in the second round, a new invitation for candidates shall be opened without delay.

#### **Article 6 – End of term and dismissal of the Chair and deputy chairs**

1. The term of the office of the Chair and of the deputy chairs is terminated as soon as the term of office at their supervisory authority ends, or when the five-year term of office ends, or in case of resignation, or in case of dismissal pursuant to Article 6 (2). The Chair or deputy chairs shall inform the secretariat two months in advance of the effective end of their term or of their intention to resign. If that is not possible due to the conditions of national procedures, the Chair or deputy chairs shall inform the secretariat immediately after their replacement as head of their supervisory authority is confirmed. In case of termination of the function before the full term of office, new elections shall take place as soon as possible for a new mandate (Art 73 (2) GDPR).
2. Upon receiving a reasoned proposal by at least a 1/3 of its members to dismiss the current Chair and/or deputy chairs, the Board shall decide by a simple majority to adopt a decision to dismiss the Chair and/or deputy chair(s).

#### **Article 7 – Duties of the Chair and deputy chairs**

1. In addition to its tasks according to Article 74 GDPR, the Chair shall be responsible for representation of the Board according to Article 68 (2) GDPR. The Chair shall act according to a mandate of the Board and may designate a deputy chair, any member of a supervisory authority or a member of the secretariat to represent the Board externally on their behalf. The Chair shall inform all members of the Board of any planned external engagements and contacts, as well as on the designation of a representative if any, and report on their results.
2. After each election of the Chair and/or deputy chairs, the Chair shall, after consultation with the deputy chairs, submit a proposal to the Board for the allocation of tasks among them including the acting on behalf of each other in cases of non-availability or incapacity. The Chair might delegate to the deputy chairs the competence to sign documents.

The Chair's proposal shall be considered as agreed upon, unless 1/3 of the members of the Board objects.

#### **Article 8 – Observers**

1. Without prejudice to any relevant international agreement between the Union and a non-EU country, providing for a specific status for the data protection authority of this non-EU country within the Board, the Board can decide upon granting the status of a permanent or temporary observer, provided it is in the interest of the Board:
  - upon request,



- to a public authority in charge of supervising the implementation of data protection legislation, and
  - demonstrating a substantial interest in the implementation of EU data protection legislation.
2. As a general rule, observers may only participate in expert subgroups and plenary meetings of the Board or parts of them relating to the elaboration of guidelines, unless otherwise decided by the Board or by the Chair.
  3. Observers shall not be reimbursed for their attendance to meetings.
  4. The secretariat of the Board shall ensure that relevant information shall be shared with observers.
  5. The observers shall be bound by the same confidentiality requirements as the members of the Board as provided in article 54 (2) GDPR and Article 33 of these Rules of Procedure.

#### **Article 9 – Experts, guests and other external parties**

1. Unless a majority of the members of the Board or the Chair objects, upon proposal of any member of the Board or of any expert subgroup, the Chair may invite via the secretariat external experts, guests or other external parties to take part in a plenary meeting and may indicate the topics in the agenda which they are invited to attend.
2. Unless a majority of the members of the Board or the Chair objects, upon proposal of any member of the Board or of any expert subgroup, the coordinator of an expert subgroup may invite via the secretariat external experts, guests or other external parties to take part in a meeting of the expert subgroup.
3. The invited experts, guests or other external parties participating in a subgroup meeting must be mentioned in the respective agenda and in the minutes.
4. Experts, guests and other external parties shall be bound by the same confidentiality requirements as the members of the Board as provided in Article 54 (2) GDPR and Article 33 of these Rules of Procedure.

### **TITLE III – ADOPTION OF DOCUMENTS AND PROCEDURE**

#### **Article 10 – Opinions of the Board under Article 64 GDPR**

1. In cases referred to in Article 64 (1) GDPR, the competent supervisory authority shall send any relevant documents including the draft decision for the opinion of the Board to the secretariat via the Board IT system. The secretariat should pre-check if all the documents are complete. The secretariat may request the competent supervisory authority to provide

the secretariat within a specific timeframe with additional information needed for the file to be complete. When necessary, the documents submitted by the competent authority will be translated into English by the secretariat without undue delay. When the competent authority agrees on the translation, and the Chair and the competent supervisory authority decide that the file is completed, the secretariat on behalf of the Chair will circulate the file to the members of the Board according to Art 64 (5) (a) GDPR. According to the last sentence of Art 64 (3) GDPR, the Chair indicates a period within which the members which have not objected shall be deemed in agreement with the draft decision of the supervisory authority.

2. According to paragraph 1 of this article, the opinion of the Board shall be adopted within eight weeks after the Chair and the competent supervisory authority have decided that the file is complete. It may be extended by a further 6 weeks, taking into account the complexity of the subject matter, upon decision of the Chair on its own initiative or at the request of at least 1/3 of the members of the Board.
3. Requests shall be provided with reasoning pursuant to Art 64 (2) GDPR. The Board may decide without undue delay and within a deadline set by the Chair not to give an opinion under Art 64 (2) GDPR, if the criteria are not met.
4. In accordance with Art 64 (3) GDPR, the Board may decide without undue delay and within a deadline set by the Chair, not to give an opinion under Art 64 (1) and (2) GDPR, because another opinion on the same matter may have already been issued. The opinion of the Board shall be adopted within eight weeks after the Chair and competent supervisory authority/Commission/EFTA Surveillance Authority have decided that the file is complete. It may be extended by a further 6 weeks, taking into account the complexity of the subject matter, upon decision of the Chair on its own initiative or at the request of at least 1/3 of the members of the Board.
5. Before being submitted to the vote of the Board, opinions shall be prepared and drafted by the secretariat and, upon decision of the Chair, together with a rapporteur and expert subgroups members.
6. When, according to Article 64(7) GDPR, the competent supervisory authority referred to in Article 64(1) GDPR communicates its intention to the Chair to maintain or amend its draft decision following the Board's opinion, or when the competent supervisory authority informs the Chair of the Board that it does not intend to follow the opinion of the Board, in whole or in part according to Article 64(8) GDPR, the Secretariat shall, on behalf of the Chair, circulate this information and, if any, the amended draft decision submitted by the national supervisory authority to the members of the Board.

7. When the competent supervisory authority referred to in Article 64 (1) GDPR declares that it would, in whole or in part, follow the opinion of the Board, and consequently either maintains or amends its draft decision, the rapporteur, the expert subgroup members and the Secretariat who prepared the opinion of the Board in accordance with paragraph 5 of this Article should where relevant inform the Board as soon as possible on how in their view the amended decision submitted under paragraph 6 of this Article by this supervisory authority takes into account the opinion of the Board. The supervisory authority concerned should be given the opportunity to provide information in this respect. The Secretariat will circulate this information to the members of the Board.
8. When a supervisory authority indicates to the Chair that it will not, in whole or in part, follow the opinion of the Board, Article 65 (1) GDPR shall apply as provided in Article 64 (8) GDPR. Hence, without prejudice to the right of any other supervisory authority concerned, the Commission or the EFTA Surveillance Authority to refer the matter to the Board under Article 65 (1) c GDPR, the Chair or a Deputy Chair may refer the matter to the Board under Article 65 (1) (c) GDPR as soon as possible.
9. In any case, following the adoption of its opinion under Article 64 (1) GDPR, the Board will not adopt any opinion under Article 64 GDPR or any other position in the context of this same Article 64 GDPR procedure, neither to acknowledge that the draft decision can be adopted without any amendment, nor to state whether an amended national draft decision submitted under Article 64 (7) GDPR is in line or not with the EDPB's opinion adopted under Article 64 (1) GDPR.

#### **Article 11 – Binding decision of the Board**

1. The Board shall respect the right to good administration as set out by Article 41 of the Charter. Before taking decisions, the Board shall make sure that all persons that might be adversely affected have been heard.
2. In case of art 65 (1) (a) GDPR, the lead supervisory authority when submitting the matter to the secretariat shall include a draft decision or revised draft decision, any relevant and reasoned objection and the written observations of the persons that might be adversely affected by the Board's decision. The secretariat may request from the lead supervisory authority and/or the concerned supervisory authorities within a specific timeframe additional information needed for the file to be completed. When necessary, the documents submitted by the competent authority will be translated into English by the secretariat. Once the competent authority agrees on the translation and the Chair and the lead supervisory authority have decided that the file is complete, the secretariat on behalf of the Chair will refer the subject-matter to the members of the Board without undue delay.

3. In cases of Article 65 (1) (b) and (c) GDPR, when the subject-matter is referred to the secretariat, the competent supervisory authorities, the Commission or the EFTA Surveillance Authority shall communicate all relevant documents. When necessary, the documents submitted will be translated into English by the secretariat without undue delay. Once the Chair and the competent supervisory authorities/Commission/EFTA Surveillance Authority have decided that the file is completed, the subject-matter is referred via the secretariat to the members of the Board without undue delay.
4. The decision of the Board shall be adopted within one month after the Chair and the competent supervisory authority/Commission/EFTA Surveillance Authority have decided that the file is complete. It may be extended by a further month, taking into account the complexity of the subject matter upon decision of the Chair on its own initiative or at the request of at least 1/3 of the members of the Board.
5. Before being submitted to the vote of the Board, decisions shall be prepared and drafted by the secretariat and, upon decision of the Chair, together with a rapporteur and expert subgroups members.

#### **Article 12 – Opinions, guidelines, recommendations and best practices of the Board**

1. In cases covered by Article 70(1) (d), (e), (f), (g), (h), (i), (j), (k), (m), (p), (q), (r), (s) and (x) GDPR and Article 51 of the Police and Criminal Justice Data Protection Directive, the Board shall issue opinions, guidelines, recommendations or best practices.
2. Before being submitted to the vote of the Board, opinions, guidelines, recommendations and best practices of the Board referred to in paragraph (1) shall be prepared by a rapporteur, by expert subgroups in liaison with the secretariat.

#### **Article 13 – Urgency procedure**

1. In the case of an urgency procedure, as defined under Article 66 GDPR, the deadlines mentioned in Articles 11 and 12 shall be reduced to two weeks and the documents shall be adopted by the simple majority of the members.
2. The supervisory authority requesting an urgent opinion or decision shall explain the reasons why such an urgent opinion or decision has to be adopted and shall submit any relevant document. When necessary, the documents submitted by the competent supervisory authority shall be translated into English by the secretariat. Once the Chair and the competent supervisory authority have decided that the file is complete, it is communicated via the secretariat to the members of the Board without undue delay.

## **TITLE IV – SECRETARIAT AND ORGANISATION**

### **Article 14 – Secretariat of the Board**

1. Pursuant to Article 75 (1) GDPR the EDPS shall provide the secretariat of the Board, the task of which is to provide analytical, administrative and logistical support to the Board. Pursuant to Article 75 (2) GDPR the secretariat shall perform its tasks exclusively under the instructions of the Chair.
2. The head of the secretariat shall be responsible for the due and timely performance of the tasks of the secretariat.

### **Article 15 – Budget**

1. The budget allocated to the Board is subject to a dedicated Title of the EDPS budget.
2. The Chair in liaison with the EDPS should provide financial reports on a regular basis to the plenary.

### **Article 16 – Travel costs and reimbursement**

One representative of each Member State shall be entitled to the reimbursement of their travel expenses for the participation to the expert subgroups as well as plenary meetings. Representatives from EFTA EEA States shall not be entitled to reimbursement.

### **Article 17 – Internal information and communication system**

1. The secretariat of the Board shall provide an information and communication system in particular to support the electronic exchange of documents within the cooperation and the consistency mechanisms.
2. The secretariat shall grant access to the information and communication system to the members of the Board, to the Commission, to the EFTA EEA supervisory authorities, to other supervisory authorities and to the single contact point (recital 119 GDPR) upon notification by the members as provided under national law.

## **TITLE V – WORKING METHODS**

### **Article 18 – Plenary meetings of the Board**

1. The ordinary plenary meetings shall be convened by the Chair not less than three weeks prior to the meeting. The secretariat shall issue the invitation to each member. Where technically feasible and secure, participants may attend ordinary meetings remotely through videoconferencing or other technical means.
2. Extraordinary plenary meetings may also be convened by the Chair, on its own initiative or at the request of the majority of the members of the Board entitled to vote. Extraordinary

plenary meetings shall be convened by the Chair at least one week before the meeting. Participants may, where technically feasible, attend the extraordinary plenary meetings remotely through videoconferencing or other technical means approved by the Board.

3. The Chair shall direct the proceedings during the meeting. If the Chair is unable to attend, they shall designate a deputy chair who will represent them at the meeting.
4. Plenary meetings shall only take place if at least half of the members entitled to vote or their representatives are attending.

#### **Article 19 – Agenda of plenary meetings**

1. The draft agenda of the plenary meetings shall be prepared by the Chair in liaison with the deputy chairs and the secretariat, then distributed to the members and other approved external participants for the relevant parts of the agenda at least two weeks before the meeting. In cases of extraordinary plenary meetings, the agenda shall be sent together with the invitation to the meeting.
2. Members may submit requests to include, delete or substitute an item of the draft agenda. The Chair shall inform all the members of these requests.
3. The draft agenda shall be adopted at the beginning of each meeting. If requests for inclusion, deletion or substitution of items have been submitted, they shall be voted on separately and shall be accepted if a simple majority of members so agrees.
4. A public version of the draft agenda shall be published on the website of the Board.
5. Invited experts, observers or other guests participating in a plenary meeting shall be mentioned in the respective agenda and the discussions points which they will attend.

#### **Article 20 – Documents for plenary meetings**

1. As a rule, all relevant documents shall be sent to the members by the secretariat at least 10 calendar days before a meeting takes place or one week in case of an extraordinary plenary meeting. In exceptional circumstances, given the importance of the matter or the urgency, documents may be distributed later. Unless the discussion on the topic is urgent or mandatory, the Board shall decide whether or not to discuss the documents which are not submitted in time.
2. Each topic submitted to the Board shall be accompanied by an information note summarizing the context and the key issues on which the Board will have to discuss or decide.

## **Article 21 – Minutes and follow-up of plenary meetings**

1. After the approval of the chair, the secretariat shall prepare the draft minutes of the plenary meetings and send them for comments to all members no later than three weeks after the plenary meeting. A list of participants to meetings should be added to the minutes.
2. The draft minutes shall include a summary of the discussions, a record of the conclusions reached, the decisions adopted, and as the case may be the numerical result of vote(s). It shall also include the list of documents submitted and their status. The positions of the supervisory authorities of the EFTA EEA States shall be recorded separately.
3. The draft minutes shall be approved by the members entitled to vote at the next plenary meeting or according to the voting procedure laid down in Article 24 of these Rules of Procedure.
4. The conclusions reached and the follow-up actions to be undertaken shall be summarized by the Chair at the end of discussions on each agenda point. A to-do-list shall be drafted by the secretariat and sent to the members, the expert subgroups and rapporteurs after approval of the Chair no later than one week after the meeting.

## **Article 22 – Voting Procedures relating to plenary meetings**

1. Unless otherwise provided by the GDPR, the Board shall take decisions by simple majority of its members entitled to vote. Before voting, consensus should be sought.
2. In event of a tie, the vote is considered as negative, except in cases foreseen under Article 65 (3) GDPR.
3. All majorities referred to by the GDPR or by these rules of procedure always refer to the total number of members of the Board entitled to vote.
4. In principal, voting shall not be secret, unless where specifically foreseen in these Rules of Procedure or where supported by a majority of the members of the Board entitled to vote.
5. Every member of the Board entitled to vote who is not represented at a plenary meeting, can delegate its voting rights to another member of the Board entitled to vote and attending the plenary meeting. The Chair and the secretariat shall be notified of any delegation of voting rights.
6. After the vote, the Chair shall declare whether the proposal was approved or not.

### **Article 23 – Language, translation and interpretation during meetings**

1. The working language of the Board shall be English. Live interpretation should be provided in all official languages of the EU at ordinary plenary meetings of the Board.
2. Documents drafted by the supervisory authorities for the procedures foreseen under Article 64 – 66 GDPR and Article 70 GDPR shall be submitted in English.
3. Exceptionally, where an existing document submitted by a member of the Board is of interest for other members, this document shall be translated into English by the secretariat after approval by the Chair, pursuant to Article 75 (6) (e) GDPR, before being communicated to the members. However, the translation provided in this paragraph and the translation referred to in Articles 10.1, 11.2, 11.3 and 13.3 of these Rules of procedure shall not apply to EFTA EEA members.
4. Documents adopted pursuant to Article 64 – 66 GDPR and Article 70 GDPR shall be translated into all official languages of the EU. Other adopted documents or summaries thereof shall be translated into all official languages of the EU, if the Board decides so.

### **Article 24 – Written voting procedure**

1. The Board can decide by simple majority from its members entitled to vote to submit documents or decisions to a written voting procedure.
2. The Chair may decide to submit documents or decisions to a written voting procedure where appropriate e.g. when a decision must be taken before the next plenary meeting. The Chair shall inform the members as soon as possible of the need and the reasons for a written voting procedure.
3. When a written voting procedure has been decided, the secretariat shall send to all members the invitation to the written voting procedure and make the relevant documents available. Members shall vote within one week once it is sent by the Secretariat, unless the Chair expressly sets another deadline if necessary.
4. When a written voting procedure has been decided by the Chair in accordance with paragraph 2 of this Article, the written voting procedure shall be suspended if at least three members entitled to vote request for the suspension of it before the end of the voting period.
5. A written voting procedure decided by the Board pursuant to paragraph 1 of this Article may be suspended by the Chair upon request of one member of the Board submitted before the end of the voting period if new circumstances appear which were unknown



when the written voting procedure was decided and that may substantially affect the outcome of the procedure.

6. Where the written voting procedure is suspended, the matter shall be discussed during the next plenary meeting of the Board, which may decide to submit the matter to a new written voting procedure.
7. Paragraphs 1 - 6 of this Article shall also apply in the context of electronic voting procedure.

#### **Article 25 – Expert subgroups**

1. The Board shall create expert subgroups to assist with the performance of the tasks of the Board.
2. The establishment, suspension or termination of an expert subgroup may be decided at any time upon proposal of the Chair or of at least three members of the Board. In any case, the list of expert subgroups shall be reviewed by the Board in the first plenary meeting of each year.
3. The coordinator of each expert subgroup shall be designated by the Board for a renewable term of two years.
4. Expert subgroups shall be composed of supervisory authorities upon notification by the members of the Board and of the EDPS, and of staff members of the secretariat in support of the subgroup.
5. Where a member of an expert subgroup cannot attend a meeting, they may be represented by another member. The coordinator shall be notified of such representation.
6. Expert subgroups shall work in accordance with the work program adopted by the Board. An annual draft plan should be prepared at the beginning of each year by the coordinator, indicating the number of meetings and, as detailed as possible, the schedule and items to be addressed.
7. Expert subgroups meetings should be scheduled and conducted to support the effectiveness of the decision-making process of the Board, in particular to meet the deadlines of the GDPR.
8. Following a specific mandate from the Board or, in urgent cases, upon decision of the Chair, new topics can be added to the work program of an expert subgroup. In this case, the

members of the expert subgroup and the Board shall be informed without delay. In these urgent cases, the Board shall be asked to confirm the mandate at the next Plenary.

9. Expert subgroup meetings should be planned well in advance by the coordinator, together with the secretariat and the rapporteur(s) concerned. The planning of meetings should take into account budgetary constraints and should be coordinated to ensure consistency with the tasks of other subgroups.
10. As a general rule, the expert subgroups should meet in person in Brussels. Where possible or necessary, in urgent cases, expert subgroup meetings may take place by way of telecommunication and/or videoconferencing, information exchange or according to the voting procedure laid down in Article 24 of these Rules of Procedure.

#### **Article 26 – Role and responsibilities of the coordinators of expert subgroups**

1. The coordinator chairs the expert subgroup meetings in a neutral manner and acts as a contact point in all respective matters. The Chair may act as a coordinator.
2. Once a meeting has been scheduled, the coordinator should, via the secretariat, send to the expert subgroup members a draft agenda without delay and in any event 10 days in advance of the meeting. Members may propose additional topics to be dealt with by the subgroup. Relevant documents for the meeting should be circulated as early as possible by the coordinator or rapporteurs or members of the subgroup via the secretariat.
3. The coordinator ensures that for all work items on the agenda, a mandate has been given by the Board or upon decision by the Chair.
4. The coordinator assisted by the secretariat for the drafting shall ensure that a summary of discussions and the conclusions of the subgroup meetings are documented for each agenda point in the minutes which shall be circulated to the members of the subgroup for approval.
5. The coordinator works in close cooperation with the Chair and the secretariat on items to be prepared by the expert subgroup for plenary meetings.
6. The coordinator ensures that for each of those items to be prepared for plenary meeting, an information note is drawn up by the rapporteur or the secretariat, in liaison with the expert subgroups, before the deadline indicated by the Chair. Then it is sent via the secretariat, to the members of the Board. The information note should contain a summary of the relevant facts and the state of play of discussions in the subgroup and should contain a recommendation or request for action by the plenary, if required.

### **Article 27 – Role and responsibilities of rapporteurs**

1. The Board or the Chair may designate one or several (co-) rapporteur(s) for specific issues on a case-by-case basis, with the assistance of the secretariat for the drafting of documents, decisions or other measures by the expert subgroups and/or the Board. As a principle, supervisory authorities shall be designated as rapporteurs. The secretariat can also act as rapporteur.
2. The (co-) rapporteur(s) is/are responsible for the elaboration of documents, incorporating comments into revised drafts, finalizing the document and presenting them to the plenary including the advice of the subgroup on possible follow-up steps, with the support of the secretariat (Art 75 (5) and (6) (g) GDPR).

### **Article 28 – Working methods of expert subgroups**

1. Expert subgroups shall as a general rule, always seek consensus for any proposal submitted to the Board.
2. In cases where consensus cannot be reached under paragraph 1, the expert subgroup shall decide to submit a document to the plenary for a vote by simple majority of all present members by show of hand. The dissenting positions should be described and alternative options for decisions should be presented to the plenary.

### **Article 29 – Board work program**

The Board shall adopt a two-year work program.

### **Article 30 – Consultation of interested parties**

The Board shall, where appropriate, organize consultations of interested parties in accordance with Article 70 (4) GDPR. The means and consultation period shall be decided on a case-by-case basis.

## **TITLE VI – GENERAL PROVISIONS**

### **Article 31 – Access to meetings**

Attendance to the plenary and expert subgroup meetings is restricted to persons mentioned in Article 4 (Membership and Participation), Article 8 (Observers), Article 9 (External experts, guests and other external parties) and persons identified in Article 25 (4) of these Rules of Procedure.

### **Article 32 – Access to documents**

1. The public shall have access to documents held by the Board in accordance with the principles laid down by Regulation (EC) No 1049/2001 for public access to European Parliament, Council and Commission documents.

2. Any initial application for access in the meaning of Article 7 of Regulation 1049/2001 shall be handled and signed by one of the deputy chairs. Any confirmatory application for access in the meaning of Article 8 of Regulation 1049/2001 shall be handled and signed by the Chair.

### **Article 33 – Confidentiality of discussions**

1. In accordance with Art 76 (1) GDPR, discussions of the Board and of expert subgroups shall be confidential when:
  - a. they concern a specific individual;
  - b. they concern the consistency mechanism;
  - c. the Board decides that the discussions on a specific topic shall remain confidential for instance when the discussions concern international relations and/or where the absence of confidentiality would seriously undermine the institution's decision-making process, unless there is an overriding public interest in disclosure.
2. The Chair or expert subgroup coordinators shall take the appropriate measures to ensure confidentiality.

### **Article 34 – Data protection**

In accordance with the regulation on the protection of individuals with regard to the processing of personal data by EU institutions and bodies, the Board shall appoint a data protection officer who shall report to the Chair.

### **Article 35 – Annual report**

Pursuant to Article 71 GDPR, the Board shall publish an annual report on the website of the Board.

The annual report shall be available in English and its executive summary shall be available in all official languages of the EU.

### **Article 36 – Representation of the Board before the Court of Justice of the European Union**

The Chair or, according to the allocation of tasks agreed, the deputy chairs, shall appoint the agent(s) representing the Board before the Court of Justice of the European Union.

## **TITLE VII – FINAL PROVISIONS**

### **Article 37 – Revision of the rules of procedure**

1. Amendments to these Rules of Procedure may be proposed by the Chair, or by one of the members of the Board.

2. Amendments shall be adopted in accordance with article 72 (2) GDPR. These Rules of Procedure shall be reviewed within two years after their adoption by the Board.

#### **Article 38 – Website of the Board**

1. All the final documents adopted by the Board shall be made public on the Board’s website, unless the Board decides otherwise.
2. The website of the Board shall be available in English. The static parts of the website and the press releases should also be available in all official languages of the EU. Speeches should be available in the original language and news should be available in English.

#### **Article 39 – Calculation of time limits**

In order to calculate the periods and time limits expressed in the GDPR and in these Rules of Procedure, Regulation 1182/71 of the Council of 3 June 1971 determining the rules applicable to periods, dates and time limits shall apply.

#### **Article 40 – Entry into force**

These Rules of Procedure shall enter into force on the date of their adoption by the Board.