



Final

85th Plenary meeting

17 October 2023, 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 Minutes of the 84th Plenary meeting – adoption

The minutes of the previous plenary meeting were adopted by the EDPB members unanimously with the changes presented during the meeting. The members of the EDPB also agreed on the public version of the minutes.

1.2 Draft agenda of the 85th EDPB meeting – adoption

The draft agenda was adopted with the inclusion of a new point 4.2 under AOB on the request to add an additional document to the file of the ongoing Art. 66 procedure.

The discussions relating to agenda points 2.2, 2.3, 3.1.1 and 4.2 were declared confidential according to Art. 33 EDPB RoP.

The Deputy Chair of the EDPB shared information with the EDPB members about important ongoing work items within the EDPB: preparation of the next EDPB strategy, the EDPB's input on the report on the application of the GDPR to be issued the European Commission in 2024 pursuant to Article 97 GDPR, the request for an Article 64(2) opinion on the concept of central administration/main establishment and the preparation of the EDPB's input regarding the European Commission's "cookie pledge" initiative.

The EDPB members decided to transform the physical subgroup meetings of 18 and 19 October 2023 into remote meetings.

2 Current Focus of the EDPB Members

2.1 EDPB/EDPS Joint opinion on the Proposal for a Regulation on the establishment of the digital euro – discussion and adoption

The Deputy Chair of the EDPB noted that the EDPB has been closely following the digital euro project since the European Central Bank launched an investigation phase on this in 2021 and has already adopted a number of documents on the matter (letter, statement and response to public consultation).

The rapporteurs presented to the EDPB members the Joint Opinion on the Proposal for a Regulation on the establishment of the digital euro ('Joint Opinion') and the main recommendations proposed therein. The EDPB members agreed to make two editorial changes in the text (namely in paragraphs 60 and 61 of the Joint Opinion) as proposed by the rapporteurs during the meeting.

The Joint Opinion, as modified during the meeting, was adopted by the members of the EDPB unanimously.

2.2 Topic for the Coordinated Enforcement Framework (CEF) 2024 – adoption

One of the ENF ESG coordinators presented the proposed topics for the Coordinated Enforcement Framework action of 2024 which were discussed and assessed by the members of the ENF ESG. The EDPB members exchanged their views on the different topics proposed.

A first vote allowed to identify the two preferred topics. Then, the majority of the EDPB members agreed to select the implementation of the right of access by controllers as the topic for the Coordinated Enforcement Framework (CEF) action of 2024. One of the ENF ESG coordinators also pointed out that the other themes could be suggested again at the next CEF in 2025.

2.3 Update on the strategic cases - information

The ENF ESG coordinators introduced to the EDPB members the state of play on the strategic cases subject to enhanced cooperation. The SAs acting as LSA in these cases provided an update on the progress of each. More specifically, the [REDACTED] gave an update on the [REDACTED] case, highlighting that [REDACTED]. The [REDACTED] updated the EDPB members about the [REDACTED] case. In the context of the latter update, it was recalled that there is a need to decide on the process to be used to remove a case from the list of strategic cases. It was agreed that this issue will be discussed at a future EDPB plenary meeting. The [REDACTED] gave an update on cases [REDACTED]. The [REDACTED] shared information on the [REDACTED] case, pointing out the progress that has been made regarding the sanction procedure.

3 FOR DISCUSSION AND/OR ADOPTION – Expert Subgroups and Secretariat

3.1 Enforcement ESG

3.1.1 Review of the first Coordinated Action – information

The rapporteur explained how the review of the first Coordinated Enforcement Action was carried out and presented the outcome of the review to the EDPB members. In particular, it was highlighted that the process appears to be overall satisfactory, although practical improvements could be made to the future organisation of the CEF, the actions to be carried out and the tools provided. For instance, an SA expressed the need to have a clear vision of the outcome of the work in terms of conclusions

(amendment of guidelines, etc.). In addition, the rapporteur noted that many SAs experienced challenges through the exercise that often seemed to be linked to a lack of available resources. The practical recommendations that have been identified during this review could be taken into account when implementing future coordinated enforcement actions.

The EDPB members took note of the presentation.

3.2 Technology ESG

3.2.1 Guidelines on telemetry and diagnostic data - request for mandate

The rapporteur presented to the plenary a request to grant the TECH ESG with a mandate to work on the guidelines on telemetry and diagnostic data.

The EDPB members adopted the request for mandate unanimously.

3.3 Secretariat

3.3.1 Prioritisation of Art. 64 Opinions: removal of confirmation of rapporteurs phase - decision

The Deputy Chair of the EDPB recalled the decision taken by the EDPB plenary on 7 April 2020 to prioritise Article 64 opinions by introducing a confirmation of rapporteurs phase and recalled that this decision was taken in order to manage workload in the context of the COVID-19 pandemic. In practice, it was implemented by introducing a written procedure phase to confirm the rapporteurs for each opinion, before the request is broadcast on IMI. As the circumstances surrounding the original decision have changed, it was proposed to remove the confirmation of rapporteurs phase for Article 64 opinions.

During a discussion, it was highlighted that the need to manage workload is still relevant and that, even if the confirmation of rapporteurs phase via the written procedure is removed, the work on Article 64 opinions will only be launched after the rapporteurs for each opinion are designated.

The EDPB members decided unanimously to remove the confirmation of rapporteurs phase for Article 64 opinions.

4 AOB

4.1 DPF redress mechanism under EO14086

The EDPB Secretariat presented the state of play on in the implementation of the encrypted exchange channel in relation to the new redress mechanism under the adequacy decision and EO14086. The Deputy Chair of the EDPB reiterated the importance of all SAs completing the necessary steps as indicated by the EDPB Secretariat.

4.2 Ongoing Article 66 procedure on the request submitted by the NO SA - request to add an additional document to the file

The IE SA requested the EDPB members to approve the addition of a document to the file concerning the ongoing Article 66 procedure. The IE SA explained that this document amounts to a letter that was sent shortly after the file was broadcast and is relevant to the issues at stake.

The EDPB members unanimously agreed to add the document to the file.

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, MT SA, NL SA, NO SA, PL SA, PT SA, RO SA, SE SA, SK SA

- European Commission

- Observers: AL SA, MD SA. In line with Art. 8 of the EDPB RoP, the observers were present during the plenary meeting except for points 2.2, 2.3, 3.1.1 and 4.2 of the agenda.

- EDPB Secretariat