



Final

86th Plenary meeting

27 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 agenda, Information given by the Chair

1.1 Draft agenda of the 86th EDPB meeting – adoption

The draft agenda was adopted with the inclusion of two additional AOB points. The NO SA proposed to add point 3.1, on the involvement of the different EDPB participants in consistency procedures of the EDPB. The Chair proposed to add point 3.2, on the November plenary meeting.

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

2 Consistency mechanism

2.1 Urgent Binding Decision on the request from the Norwegian Supervisory Authority for ordering the adoption of final measures regarding Meta Platforms Ireland Limited (Art. 66(2) GDPR) – discussion and adoption

The Chair thanked the EDPB Secretariat as rapporteur for the work on this file, and the members who discussed the matter in the course of three SAESG meetings (with participation of members of the ENF ESG).

The Chair referred to Article 68(6) GDPR relating to the voting rights of the EDPS applicable to Article 65 GDPR. The Chair proposed to address this technical matter after the discussions on the content of the draft urgent binding decision.

The EDPB Secretariat presented the draft urgent binding decision drafted in line with the orientations provided during the SAESG meetings and taking into consideration the views expressed by Meta IE and Facebook Norway.

The Chair invited the IE SA to take the floor.

As regards the process, the Chair underlined that, during the SAESG meetings, the EDPB Secretariat presented different possible options to the members who gave clear orientations. Therefore the draft presented to the plenary is based on the orientations provided by the majority of the EDPB members

in the context of the SAESG meetings, and is subject to validation today. The Chair also underlined that the points raised by the IE SA were already discussed by the EDPB members during the SAESG meetings.

The IE SA made further requests for changes to be made in the sections relating to the urgency (e.g. considering the ongoing compliance assessment process carried out by the IE SA in cooperation with the CSAs) and to the final measures, as well as on the proposed timing envisaged in the draft decision.

The EDPB members decided to not adapt the draft EDPB decision following those requests.

During the plenary meeting, the members agreed on the following changes made to the version 2 of the draft urgent binding decision |

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

Despite the previous agreement made in paragraph 244 during the SAESG meeting regarding the wording of Article 61(1) and the duties of requested SA in the context of a request of mutual assistance, the EDPB members agreed to modify it, as proposed by the EDPB Secretariat, in order to improve its clarity.

The EDPB members entrusted the EDPB Secretariat to carry out the finalisation of the formatting of the document.

As regards the EDPS voting rights, while acknowledging the limitation set out in Article 68(6) GDPR, the EDPB members agreed it must be interpreted restrictively and the conditions for its application are not fulfilled in the present case. Therefore, they concluded that the EDPS should have the right to vote.

The urgent binding decision was adopted by the EDPB members. 24 EU members of the EDPB voted in favour of adoption. 4 EU members of the EDPB voted against. The 3 EEA members of the EDPB voted in favour of adoption.

The EDPB members discussed the possible external communication about the content of the binding decision and agreed that the controller first need to be notified by the IE SA. Several EDPB members

highlighted the need for this notification to be done as soon as possible. The LSA put forward that they were still assessing which form of action was required on their part, while affirming their commitment to giving full effect to the Urgent Binding Decision of the EDPB without undue delay.

The EDPB Secretariat indicated that the urgent binding decision will be notified to the LSA and to the CSAs by the end of the day of the plenary meeting.

3 AOB

3.1 NO SA - Involvement of the different EDPB participants in EDPB consistency procedures

The NO SA put forward that a discussion of the role of each of the participants in the activities of the EDPB would be beneficial, in particular to achieve enhanced clarity on the role of the European Commission in different types of activities of the EDPB.

The EDPB members agreed to discuss the matter at a future meeting.

3.2 November Plenary meeting

The Chair announced that there will be an only one-day in-person plenary meeting on 14 November. The Chair informed the members that she received a request from the US Department of Commerce to meet the EDPB on the 14 November in order to discuss the practical implementation of the EU-US Data Privacy Framework, in particular on the complaint processes.

The EDPB members also agreed to invite US representatives for a discussion at the occasion of the EDPB plenary meeting of 14 November.

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