



Final

94th Plenary meeting

18-19 June 2024, in person

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

I.1. Minutes of the 93rd Plenary meeting – adoption

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 94th EDPB meeting – adoption

The draft agenda was adopted with some editorial modifications in items B.2.1, C.1 and D.2, and the inclusion of 3 new points under AOB: one requested by the EDPS concerning its decision on the investigation into the EU COM's use of Microsoft 365, one concerning the PT SA's 30th anniversary, and one by the SE SA concerning a recent request for a preliminary ruling by the Swedish Supreme Administrative Court. Points A were placed before points B.

The Chair informed the EDPB members that the EDPB Guide for Small Business has also been made available in French and German. The Chair added that more translations will follow before the end of the summer (translations into 18 languages have been requested in total) and thanked the members who dedicated resources to make the translations possible.

A. Agenda items for adoption

There was no request to discuss the proposed A items. A single vote was organised for the two A agenda items and they were adopted unanimously:

- A.1. Article 64(1)(b) opinion on the draft decision of the French Supervisory Authority regarding the “Code of Conduct for Service Providers in Clinical Research” submitted by EUCROF (Compliance, E-Government and Health ESG);
- A.2. Opinion on the LI SA's draft decision on the Ivoclar Vivadent BCR-C (ITS ESG).

B. Agenda items for discussion

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

B.1.1. Consultation of stakeholders

The Chair presented the item, recalling that the EDPB is more and more frequently being called to hold a public consultation prior to the adoption of guidelines. Although it is already common practice for the EDPB to consult on the first version of the guidelines, the Chair invited the members to discuss the possibility of consulting stakeholders earlier in the process, using a written consultation at the beginning of the preparation of guidelines. The EDPB already sometimes organises stakeholders' events before the drafting of guidelines, such as the one that will soon be organised for the Guidelines on 'Consent or Pay'.

The EDPB members exchanged views on the topic. A few members commented that there would be cases where a consultation prior to the start of the drafting process would be appropriate, in order to gather practical examples, as well as concrete questions and issues faced by stakeholders. Others highlighted that the current approach functions well, noting both the efficiency of *ex-post* consultation and the risk that some stakeholders might incorrectly assume that *ex-ante* contributions would automatically be followed. There was a general agreement that prior consultations would be decided on a case-by-case basis.

The EDPB members decided that the appropriateness of an early public consultation will be decided at the moment when the mandate for a new work item is granted by the plenary. If pre-consultations prove to be a good practice, the Board can consider organising them on a more regular basis. In case such early prior consultation would take place, it would be organised once an indicative scope of the guidelines and questions to address have been identified in order to ensure an efficient consultation.

B.1.2. Request for mandate - EDPB collaboration with European Accreditation (Compliance, E-Government and Health ESG)

The rapporteur presented a request for mandate for an EDPB collaboration with the European Accreditation (EA), a not-for-profit association gathering National Accreditation Bodies which are assessing and verifying certification bodies. The request for mandate is linked to a letter addressed to Accredia, adopted by the EDPB in July 2023, when the EDPB proposed to exchange views with the EA. The rapporteur recalled that the certification mechanisms and criteria are intrinsically linked with the accreditation of certification bodies, and that it is important to set up a communication channel with the EA.

The EDPB plenary was requested to mandate the CEH ESG to invite the EA to CEH ESG meetings and to establish a working group with the CEH ESG acting as a contact point with the EA and reporting regularly to the CEH ESG.

The EDPB members adopted the mandate unanimously.

C.1. Elections of one Deputy Chair: Presentation by the candidate

The Chair informed the EDPB plenary that Mr. Aleid Wolfsen's mandate as Deputy Chair ended on 15 May 2024, and that, during the June plenary, the members were called to elect his successor. The Chair thanked Mr. Aleid Wolfsen for his work and contributions to the EDPB. In response, the NL SA conveyed Mr. Aleid Wolfsen's gratitude and appreciation for the time spent as Deputy Chair of the EDPB.

Following this, Mr. Zdravko Vukić, Director of the Croatian Personal Data Protection Agency, presented his motivation for the position of Deputy Chair.

The EDPB members took note of the information and the Chair indicated that the election would take place the following day.

C.2. [EDPB HUB \(Information exchange platform\): Demo of the upgraded resource section and video projection on the general functionality of the platform](#)

The EDPB Secretariat presented a short video which highlights the main features of the EDPB HUB, an IT tool used to share information between EDPB members, and which explains how the content is structured. The EDPB Secretariat also presented a new section in the EDPB Hub, which gathers documentation and guides related to the different IT and legal resources, and so makes that content more easily accessible. This will facilitate the integration of new users.

The EDPB members took note of the information provided and of the demo.

B.1.3. [Guidelines 01/2023 on Article 37 Law Enforcement Directive - final adoption after public consultation \(Borders, Travel and Law Enforcement ESG\)](#)

The Chair recalled that, in September 2023, the EDPB adopted the first version of the guidelines and opened a public consultation. The rapporteur informed the EDPB plenary that three contributions were received. One contribution concerned further clarifications on Article 35(1)(b) LED, while the other two contributions concerned the practical needs and conditions for data transfers to third countries, in particular in relation to Article 37(1)(b) LED. The rapporteur presented the updates made to the guidelines.

The EDPB members adopted the revised [Guidelines 01/2023 on Article 37 Law Enforcement Directive](#) unanimously and decided to publish them on the EDPB website.

B.2. Policy debate

B.2.1. [Use and handling of Art. 64\(2\) opinions' requests](#)

The Chair recalled that, at the Plenary meeting on 14 March 2024, the EDPB members agreed to further discuss the approach to Article 64(2) opinions and the differences between these opinions and guidelines.

The EDPB members exchanged views on the topic. Most EDPB members who took the floor highlighted the usefulness of the Article 64(2) opinions and the importance of having the possibility to request them. The fact that when an SA does not follow an opinion of the EDPB under Article 64, any SA concerned or the EU COM may communicate the matter to the EDPB, which shall adopt a binding decision in line with Article 65(1)(c) GDPR, was also recalled. At the same time, the members also agreed that a more frequent use of this tool leads to increased workload for the SAs and the EDPB Secretariat, which is particularly challenging for smaller SAs. The EDPB members agreed that Article 64(2) opinions are better suited for targeted questions requiring a swift answer, while guidelines are better suited for matters with a larger scope. Different possibilities for the way forward were identified: to update the existing Internal EDPB Document 3/2019 on Article 64(2) in light of recent practical experience, to prepare a separate document outlining best practices for the use of Article 64(2) or to entrust an ESG to further discuss the topic, possibly within the framework of the draft Best Practices for ESGs document. In addition, some members stressed the need to discuss the subject matter of potential Article 64(2) requests, where possible in light of the circumstances giving rise to an opinion request, before formally submitting the requests.

A request for mandate will be presented at a future plenary meeting, with proposals on how to pursue the work, taking into account the discussions during the June plenary.

C. Organisational matters

C.1. Elections of one Deputy Chair: Voting

The Secretariat recalled that, pursuant to Article 5(5) EDPB RoP, the candidate shall be elected through secret ballot provided that he receives the support of a simple majority. Following this, the members proceeded with the vote.

24 EU members of the EDPB voted in support of the candidate, 4 EU members of the EDPB abstained. The 3 EEA members of the EDPB expressed their position in favour of the candidate.

Mr. Zdravko Vukić, Director of the Croatian Personal Data Protection Agency, was elected as Deputy Chair with a term of office of five years.

C.3. Evaluation of Best practices for the organisation of the EDPB plenary meetings

The EDPB Chair recalled that, in November 2023, the EDPB members adopted the 'EDPB Best practices for the organisation of EDPB Plenary meetings'. The objectives of these Best practices were, in particular, to reorganise the agenda of plenary meetings, to reduce the number of written procedures by generally handling such matters as point A items for adoption in the plenary itself, to improve the flow and sharing of information, and to increase the efficiency of the EDPB decision making. The Chair also recalled that the document provides for an assessment after six months of application. The EDPB members were then invited to share their views on the document and to decide if the project should be continued.

The Chair suggested –that a reference to pre-consultation of stakeholders, as discussed during the June plenary, could also be incorporated.

Most EDPB members shared positive impressions on the impact of the Best practices to the organisation of EDPB plenary meetings and supported making the application of the Best practices permanent.

One member of the EDPB highlighted that although the best practices have brought much progress, there was a need to assess the impact of the Best practices on the EDPB Plenary's work before deciding on the pilot project. The member suggested therefore a discussion based on its circulated written amendments especially on the role of the Strategic Advisory Expert Subgroup and its preparation when giving direction to ESGs or TFs and, to refer to the Vienna statement in relation to the roles and responsibilities in the Best practices. The Chair underlined that the role of the Strategic Advisory Expert Subgroup was to be addressed in the Best Practices for Experts Subgroup document which is under preparation. The member replied that from its point of view the role of the Strategic Advisory Expert Subgroup was to be addressed in both Best Practices (for the Plenary meetings and for Experts Subgroups) due to its split competences.

The EDPB members agreed for the time being to continue applying the Best practices document as a pilot project and to re-consider the matter, in particular paragraph 16 relating to the Strategic Advisory Expert Subgroup, at a future Plenary, together with the draft document on Best Practices for Experts Subgroup.

D. Agenda items for information

D.2. Updates from EDPB participants

D.2.1. European Commission presentation on the Regulation of the European Parliament and of the Council on the transparency and targeting of political advertising

The EU COM presented the Regulation of the European Parliament and of the Council on the transparency and targeting of political advertising. More specifically, the EU COM explained the background to the Regulation and the legislative context in which it was adopted. Some provisions of the Regulation have already entered into application, with the majority of the provisions becoming applicable as of October 2025. The EU COM highlighted that the objective of the legislation is twofold and that it has two legal bases: an internal market objective aimed at overcoming fragmentation of legislation across the EU (based on Article 114 TFEU) and a data protection objective (based on Article 16 TFEU). More specifically, the regulation contains rules concerning the processing of personal data in the context of political advertisements online and is applicable without distinction between paid and unpaid content.

Following the presentation, the EDPB members and the EU COM exchanged on the interplay between the new Regulation and the GDPR, considering that Regulation 2024/900 would apply in addition to the GDPR. The EU COM highlighted that, under the new legislation, oversight could be conferred to different authorities in the Member States but that DPAs remain competent for the data protection aspects. Therefore, consistent interpretation with the GDPR is key. The EU COM also explained that they are currently working on the implementation of the regulation and intend to ask the EDPB to prepare guidelines for SAs to apply and enforce it. The EU COM expressed its willingness to work closely with the EDPB in the process and informed the EDPB plenary that they are also preparing a post-elections report, for which the EDPB members are invited to share any input they may have.

D.3. Any other business

D.3.1. Update from the EDPS concerning their decision into the European Commission's use of Microsoft 365

The EDPS provided an update on the EDPS's decision following investigation into the use of Microsoft 365 by the EU COM and the subsequent actions by the EU COM and Microsoft, in particular with regard to the appeal procedures before the General Court and the fact that the EDPS is currently working on its defence.

D.3.2. 30th anniversary of the PT SA

The PT SA invited the EDPB members to attend the PT SA International Conference organised to celebrate the 30th anniversary of the PT SA on 24 June 2024, in Lisbon. The programme and more information have been shared to the members via email.

D.3.3. Request for a preliminary ruling to the CJEU by the Swedish Supreme Administrative Court

The SE SA informed of a recent decision of the Swedish Supreme Administrative Court to send a request for a preliminary ruling to the CJEU (Case number C-422/24) concerning the application of Articles 13 and 14 GDPR in the context of collecting personal data through camera surveillance, as well as the impact of EDPB guidelines.

E. State of play

E.1. Questionnaire on the use of information service providers by obliged entities in the context of their obligations on AML/CFT

The EDPB members took note of the written state of play concerning the questionnaire on the use of information service providers by obliged entities in the context of their obligations on AML/CFT.

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

EFTA Surveillance Authority

Observers:

- MD SA, GE SA. In line with Art. 8 of the EDPB RoP, the observers were present during the plenary meeting except for points A.1 and A.2 of the agenda.
- CH SA was present during the plenary meeting for item B.1.3 of the agenda.

EDPB Secretariat