

2018

ANNUAL REPORT - EXECUTIVE SUMMARY

COOPERATION & TRANSPARENCY



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2018 was a landmark year for data protection. On 25 May 2018, the long anticipated General Data Protection Regulation (GDPR) entered into application. In addition to updating the European Union's data protection rules for the digital age, this Regulation established the European Data Protection Board (EDPB) to ensure consistent application of the new rules across the EEA.

The EDPB is therefore a young EU body. Yet even in the first seven months of its existence, we have reached several milestones which we are now able to reflect upon.

Our role is to ensure the harmonised enforcement of the GDPR across the EEA. To this end, we endorsed the 16 GDPR related Guidelines of the Article 29 Working Party, we adopted four more Guidelines, 26 Opinions on Data Protection Impact Assessments carried out by the national Supervisory Authorities and held five plenary meetings addressing a range of topics, from the EU-Japan draft adequacy decision to electronic evidence and ePrivacy.

The feedback we have received from stakeholders on the first year of work has been encouraging. Many people and companies are now calling for increased global alignment

on the processing of personal data. We believe that by coordinating a consistent approach to data protection, the EU is demonstrating that respect for individuals' rights to privacy and data protection can go hand-in-hand with a flourishing economy, not least because it provides businesses with a clear framework and creates competitive advantages, such as improved customer loyalty and more efficient operations.

Next year is set to be even busier. At the beginning of 2019, we adopted our working programmes for 2019-2020. The EDPB work programme aims to address the priority needs of all stakeholders, including EU legislators. Having already issued guidance on the interpretation of new provisions introduced by the GDPR, the EDPB will now turn its attention to specific items and technologies.

In my view, with national Supervisory Authorities working together on an equal footing and the support of a dynamic Secretariat, the EDPB is well equipped for its mission of upholding a high level of data protection across the EEA. Looking ahead, I am confident that we will continue to lead by example in striving for transparency and cooperation in the EEA, and beyond.

Andrea Jelinek

Chair of the European Data Protection Board



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About the European Data Protection Board

The European Data Protection Board is an independent European body, established by the [General Data Protection Regulation \(GDPR\)](#), which contributes to the consistent application of data protection rules throughout the European Economic Area (EEA) and promotes cooperation between its data protection authorities.

The EDPB aims to ensure the consistent application in the European Economic Area of the GDPR and of the European [Law Enforcement Directive](#).

The EDPB can adopt general guidance to further clarify European data protection laws, giving stakeholders – including individuals – a consistent interpretation of their rights and obligations and providing supervisory authorities with a benchmark for enforcing the GDPR.

The EDPB is also empowered to issue opinions or decisions

to guarantee the consistent application of the GDPR by the national Supervisory Authorities ('Consistency Opinions' or 'Consistency Decisions'). The EDPB also advises the European Commission on any issue related to the protection of personal data and new proposed legislation in the European Union.

The Board acts in accordance with its [rules of procedure](#) and [guiding principles](#).

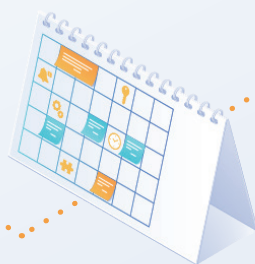
The EDPB is composed of representatives of the national data protection authorities and the European Data Protection Supervisor (EDPS). The Supervisory Authorities of the EFTA EEA States (Iceland, Liechtenstein and Norway) are also members with regard to GDPR-related matters, although they do not hold the right to vote nor can they be elected as chair or deputy chair. The European Commission and – with regard to GDPR-related matters – the European Free Trade



Association (EFTA) Surveillance Authority have the right to participate in the activities and meetings of the Board, but without voting rights.



The EDPB has a [Secretariat](#), which is provided by the EDPS. A [Memorandum of Understanding](#) determines the terms of cooperation between the EDPB and the EDPS. This Memorandum was signed during the first plenary meeting of the European Data Protection Board on 25 May 2018.



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2018 Setting up of the EDPB and the Secretariat – an overview

The [rules of procedure](#) were adopted during the first plenary meeting of the European Data Protection Board, which took place on 25 May 2018. Several modifications were approved on 23 November 2018.

To assist in performing its tasks, several **expert subgroups** were set up within the EDPB. In addition, the **EDPB Secretariat** was established to provide analytical, administrative and logistical support to the EDPB.

3.1. EDPB'S ACTIVITIES

Between 25 May and 31 December 2018, the EDPB held **five plenary sessions**. In addition, there were 36 subgroup meetings.

During its first plenary meeting on 25 May 2018, the EDPB **endorsed 16 Guidelines** previously established by the Article 29 Working Party (WP29). During the remainder of 2018, the EDPB adopted **four more Guidelines** that aim

to clarify a range of provisions under the GDPR. These Guidelines addressed certification and the identification of certification criteria, derogations relating to international transfers, the territorial scope of the GDPR and the accreditation of certification bodies.

To guarantee the consistent application of the GDPR in cases where a competent Supervisory Authority wants to adopt specific measures having cross-border implications, the EDPB issues **Consistency Opinions**. The competent Supervisory Authority has to take utmost account of the opinion. Between 25 May and 31 December 2018, 26 Opinions on the national lists of processing operations subject to a Data Protection Impact Assessment (DPIA) were adopted by the EDPB. The purpose of the exercise was to ensure consistency across all national lists.

The EDPB also acts as a dispute resolution body and issues **binding decisions**. From 25 May to 31 December



2018, however, no dispute resolutions were initiated. This suggests that, to date, Supervisory Authorities have been able to reach consensus on all current cross border cases.

The EDPB **advises the European Commission** on any issue related to the protection of personal data, including assessments of the standard of data protection in third countries or international organisations. In 2018, the EDPB issued two such Opinions, at the request of the Commission: one on electronic evidence (e-Evidence) and one on the EU-Japan draft adequacy decision. On its own initiative, the EDPB also adopted a statement on economic concentration.

In 2018, the EDPB also adopted two **letters**, the first providing guidance to the Internet Corporation for Assigned Names and Numbers (ICANN) on how to develop a GDPR-compliant model for access to personal data processed in the context of their WHOIS system and the second relating to the revised Payments Services Directive (PSD2 Directive).

3.2. SUPERVISORY AUTHORITIES' ACTIVITIES

Under the GDPR, the Supervisory Authorities have a duty to cooperate in order to ensure consistent application of the Regulation on **cases with a cross-border component**. Different cooperation procedures exist such as joint operations, mutual assistance, or a specific cooperation procedure labelled "One-Stop-Shop".

Between 25 May and 31 December 2018, 255 cases with a cross-border component were registered in the IMI system. Most of the cases derived from complaints by individuals (176 cases). The rest (79 cases) originated from other sources. The three main topics of these cases related to data subjects' rights, consumer rights, and data breaches.

In 2018, 43 **One-Stop-Shop procedures** were initiated by SAs from 14 different EEA countries. At the end of the year, the procedures were at different stages: 20 were at the informal consultation level, 20 were at draft decision level and two were final decisions. These first One-Stop-Shop final decisions related to the exercise of the rights of individuals, the appropriate legal basis for data processing and data breach notifications.

The **mutual assistance procedure** allows for Supervisory Authorities to ask for information from other SAs, but also to request other measures for effective cooperation. In the period between 25 May and 31 December 2018, 397 mutual assistance requests, both formal and informal, were triggered. 89% of the requests were replied to within 23 days.

No **joint operations** were initiated in 2018.

In 2018, the Supervisory Authorities of the 31 EEA countries reported over a hundred thousand cases at the national level. The majority of cases were either related to complaints or were initiated on the basis of data breach notifications from controllers.

3.3. CONSULTATIONS

The EDPB organises **public consultations** on its guidelines to gather the views and concerns of all interested stakeholders and citizens. In 2018, the EDPB issued three consultations on its draft Guidelines, respectively on certification, on the territorial scope of the GDPR and on the accreditation of certification bodies.

As part of the annual review of the EDPB activities – established by Article 71 of the GDPR – a **stakeholder** survey was conducted, focusing on 20 GDPR guidelines. Respondents were part of trade associations from Europe, North-America and Asia-Pacific.

Sixty-five percent of stakeholders considered the Guidelines to be useful. While 45 percent considered them to be sufficiently pragmatic and operational for their needs, 23 percent called for improvement. For instance, shorter and more pragmatic guidance was recommended.

The majority of feedback concerning the consulting and drafting process of the Guidelines was positive or neutral. Some stakeholders encouraged the EDPB to increase opportunities to be involved and cooperate in the drafting of Guidelines.

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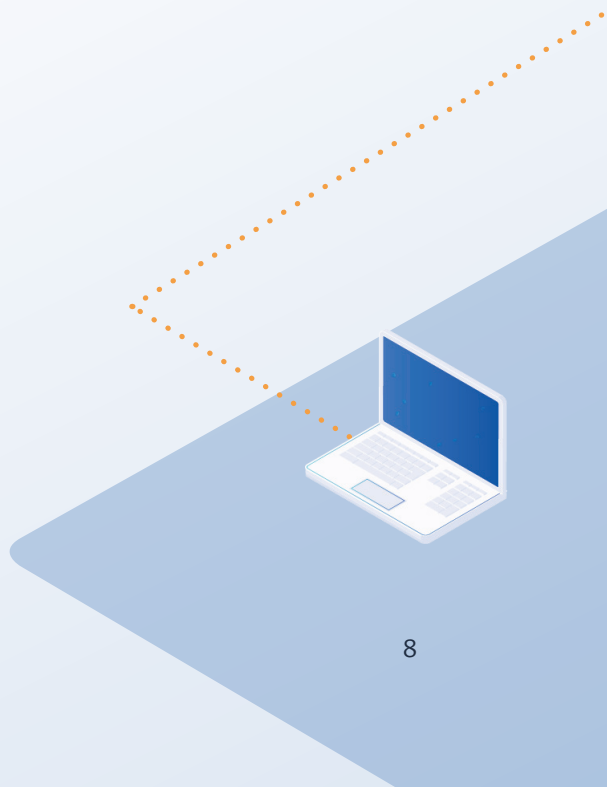


Main objectives for 2019

In 2019 and 2020, the EDPB aims to focus on data subjects' rights, the concept of the controller and processor and legitimate interest in the guidance that it provides. The EDPB will continue to advise the Commission on matters such as cross-border data access requests for e-Evidence, the revision or introduction of adequacy decisions for data transfers to third countries and any possible revision of the

EU-Canada Passenger Name Record (PNR) agreement.

In 2019, the EDPB will continue its mission by deepening existing stakeholder relationships and developing new ones with relevant parties, while also continuing to participate in relevant conferences and maintaining a strong social media presence.



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