

## RELEVANT FRAGMENTS OF THE EDPS ANNUAL REPORT 2018 CONCERNING COOPERATION WITH NATIONAL AUTHORITIES

### **Section: 1 About the EDPS**

*Cooperation: We work with national data protection authorities (DPAs) to promote consistent data protection across the EU. Our main platform for cooperation with DPAs is the European Data Protection Board (EDPB).*

### **Section: 4.1 PREPARING FOR A NEW LEGISLATIVE FRAMEWORK**

*2018 marked the beginning of a new era in EU data protection. On 25 May 2018, the General Data Protection Regulation (GDPR) became fully applicable to all companies, organisations and institutions operating in the European Union. The new legislation also established the European Data Protection Board (EDPB), a new EU body responsible for facilitating cooperation between the EU's national data protection authorities (DPAs). The EDPS participates fully in the activities of the Board and provides its secretariat.*

#### **Section: 4.1.1 The EDPB gets to work**

*On 25 May 2018, the day on which the GDPR became fully applicable for all businesses and organisations operating in the EU, the EDPB started its work.*

*Established under the GDPR, the Board replaces the Article 29 Working Party (WP29) as the forum for cooperation between the DPAs of the 28 Member States and the EDPS. It also takes on many new tasks, aimed at ensuring the consistent application of the GDPR across the EU. In addition to this, the Board is able to issue decisions, guidelines and statements on a wide range of topics.*

*Under the new legal framework, the EDPS is tasked with providing the secretariat for the EDPB. Operational from day one of the GDPR, the secretariat not only provides administrative and logistic support for the EDPB, but also carries out relevant research and analysis tasks. In addition to providing the secretariat, the EDPS is a full member of the Board and attended the five EDPB plenary meetings which took place between May and December 2018.*

*Much of the work carried out by the EDPB takes place within subgroups, each of which relates to a specific area connected to data protection. These include key provisions of the GDPR, international transfers, technology and financial matters, among many others.*

*EDPS representatives attended the subgroup meetings that took place in 2018. Among a number of topics, members shared their views on the consistency and cooperation mechanisms designed to harmonise data protection practice across the EU, including the functioning of the so-called One Stop Shop mechanism. Also discussed was the performance of the Internal Market Information (IMI) System, the IT platform used to exchange information on cross-border issues, as well as the challenges and types of questions received by DPAs under the GDPR. Most DPAs reported a substantial increase in the number of complaints received since 25 May 2018.*

*The Board adopted 26 Opinions in 2018, establishing a list of cases in which organisations must carry out Data Protection Impact Assessments (DPIAs). These lists are an important tool in ensuring the consistent application of the GDPR across the EU. An Opinion on the new eEvidence Regulation was also adopted, as well as various other letters and documents, including Guidelines on the territorial scope of the GDPR, on GDPR certification, on accreditation and on derogations for international*

*transfers. On 5 December 2018, the EDPB also adopted an Opinion on the draft EU-Japan adequacy decision for international data transfers (see section 4.5.1).*

*In order to confront the Board's increasing workload, the number of plenary meetings is set to double in 2019. As we enter a new era in data protection practice, we look forward to continued and increasing cooperation with our fellow DPAs through the newly-established EDPB.*

### **Section: 4.2.3 Inspecting Europol**

*On 8 May 2018, we issued a report on our first Europol inspection, carried out in December 2017. As with our other inspections (see section 4.4.6), the results were not shared publicly, but the report was shared with the national data protection authorities (DPAs) through the secretariat of the Europol Cooperation Board (see section 4.2.6). We outlined a number of recommendations for improvement and we will continue to work with Europol to ensure they put our recommendations into practice. We carried out a second inspection from 22-25 May 2018. Three experts from the DPAs of France, Greece and Italy joined the inspection as part of the EDPS team. The Member States are Europol's main information providers so, as well as benefitting from their expertise, the participation of national experts in the inspection process helps to raise awareness of any problems arising at Europol level which might have originated at national level. This could include problems with data quality or insufficient justification for the processing of sensitive data, for example. They can then consider how to tackle these problems in their supervisory activities at national level.*

### **Section: 4.2.6 Meeting with the Cooperation Board**

*Just as the EDPS is responsible for supervising the processing of personal data by Europol, the national DPAs are responsible for overseeing the processing of personal data by their respective national law enforcement authorities. As most of the data processed by Europol comes from the national law enforcement authorities, it is essential that we are able to cooperate effectively with the national DPAs. In addition to activities such as joint supervision, much of this cooperation takes place in meetings of the Cooperation Board, for which the EDPS provides the secretariat. The Board has an advisory function and provides a forum to discuss common issues and develop guidelines and best practice. Composed of representatives from the relevant national DPAs and the EDPS, the Board meets at least twice a year. In 2018, these meetings took place on 30 May and 3 October.*

*The first meeting provided an opportunity for us to share information on the supervisory activities that had taken place since our previous meeting on 16 November 2017. This included our first Europol inspection. It was also a chance to discuss the work programme of the Board for the next two years.*

*Assistant Supervisor Wojciech Wiewiórowski opened our second meeting. In his speech he stressed that fruitful cooperation between the EDPS and DPAs depends on trust and reciprocity. Only in such an environment can the Board be successful in protecting citizens' rights.*

*We then focused on Europol activities that have an effect at national level. For example, Europol provides tools which facilitate the exchange of information between national law enforcement authorities and the national DPAs are responsible for supervising their use at national level. In this respect, discussions took place on the use of ETS by national law enforcement authorities and on possible developments of FIU.net (see section 4.2.4).*

*An update of a leaflet aimed at helping individuals to exercise their data protection rights in relation to Europol and a handbook for national law enforcement authorities on how to send data to Europol were also discussed.*

*We look forward to strengthening our cooperation with the Board as we work towards achieving the joint aim of a secure and open Europe*

#### **Section: 4.3.2 Coordinated supervision of large-scale IT systems**

*Just as the EDPS is responsible for supervising the central units of the EU's large-scale IT databases, the national DPAs are responsible for supervising how their respective national authorities use these databases. In order to ensure the consistency of supervision efforts on both levels, all supervisory authorities involved, including the EDPS, cooperate through Supervision Coordination Groups (SCGs). Each of these groups is dedicated to a specific EU database.*

*Made up of representatives from the national DPAs and the EDPS, the SCGs meet regularly to ensure coordinated end-to-end supervision of all the databases. As the supervisory authority for the central units, the EDPS participates as a full member of these groups. We also provide the secretariat for the groups, working under the authority of their respective Chairs.*

*As in past years, the groups met twice in 2018. The SCGs for Eurodac, SIS and VIS met in June and November, while the SCG for the Customs Information System (CIS) met in May and October. The results of these meetings are published on their respective webpages on the EDPS website. The meetings continue to provide a valuable forum for cooperation between the Member State DPAs and the EDPS, while also respecting the role and competences of each.*

*The new data protection rules for the EU institutions and bodies provide for a single model of coordinated supervision of both large-scale IT systems and EU agencies and bodies, within the European Data Protection Board (EDPB). The EDPB has therefore launched an initiative to reflect on how to organise this coordinated supervision within the EDPB framework.*

*The SCGs will meet again in 2019 as part of our ongoing commitment to ensuring effective, efficient, coordinated and consistent supervision of these important databases.*

#### **Section: 4.7 THE 2018 INTERNATIONAL CONFERENCE OF DATA PROTECTION AND PRIVACY COMMISSIONERS**

*In 2018, the EDPS had the privilege of hosting the 40th International Conference of Data Protection and Privacy Commissioners, alongside our co-hosts, the Bulgarian Commission for Personal Data Protection (CPDP). This was the first time that this annual conference, which took place from 22 to 26 October 2018, had been held by an EU institution in collaboration with a national supervisory authority.*

*The Conference began with a two-day closed session, open only to conference accredited members. We then welcomed participants from all over the world to the public session of the Conference. Participants included representatives from government, civil society, regulators, industry, academics and the media, in addition to data protection authorities (DPAs). Forty side events on a wide range of privacy related issues also took place and additional privacy events were also organised by our co-host in Sofia.*

*The 40th International Conference of Data Protection and Privacy Commissioners was an event unlike any of its predecessors. It did not focus on privacy or data protection or specific laws like the General Data Protection Regulation (GDPR), or even on laws in general. Rather, through Debating Ethics: Dignity and Respect in Data Driven Life, we aimed to build on the work started by the EDPS Ethics Initiative and stimulate an honest and informed discussion about how we should shape the impact of digital technology on individuals and societies. As a result of our efforts in this area, the EDPS is now viewed as a leading authority on digital ethics.*

*A detailed report on the Conference can be found on the EDPS website.*

#### **Section: 7.1.4 The EDPB**

*Preparations for the EDPB began well in advance of 25 May 2018 (see section 4.1.1), when the Board officially started its work as an EU body. Though the Board itself has its own communications team, the EDPS Information and Communication team acts in a support role, as and where required.*

*In the lead up to May 2018, the majority of this work focused on ensuring that the EDPB would be ready to start work from day one. To do so, they needed a website. We worked closely with colleagues from the EDPB to ensure that their website was ready and fully functional in time for the launch of the EDPB on 25 May 2018, also ensuring that EDPB staff members received training on how to use the website.*

*In addition to this, we provided a lot of graphic support, helping to design and produce publications and other graphic materials in line with the corporate identity of the EDPB.*

*Since the launch of the EDPB, we have continued to support their communications team in their activities and also participate in regular conference calls organised by the EDPB secretariat with communications representatives from the other EU data protection authorities (DPAs) which make up the EDPB. We hope that this productive relationship will continue.*

#### **Section: 7.2.2 Preparing for the EDPB secretariat**

##### **A pilot programme for short secondments**

*The 28 EU data protection authorities (DPAs) and the EDPS make up the EDPB. Strong cooperation between all of these members is essential to achieving results. To be truly effective, this cooperation should extend beyond data protection experts, to human resources experts as well.*

*On 29 September 2018, we organised a meeting between the HR units of the EU DPAs to discuss a pilot programme of EDPB short secondments. We wanted to discuss the idea and exchange proposals, in order to develop a programme which could be of benefit to all DPAs.*

*The programme will provide a pool of experts in different areas willing to visit another DPA or the EDPB secretariat and exchange knowledge. We hope to launch the pilot programme at the beginning of 2019.*