

Work program 2020-2022

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1. INTRODUCTION

Over the last years, EU large-scale information systems connecting EU Member States' authorities and EU bodies have increased and evolved. These systems enable them to share electronically personal data in an unprecedented speed and volume.

Whereas the European Data Protection Supervisor (EDPS) supervises the EU bodies' processing of data, national supervisory authorities supervise national authorities, from which most data originates and to which data is ultimately channelled. It thus becomes essential that they coordinate their supervisory activities

Regulation 2018/1725 makes this cooperation between the EDPS and the national supervisory authorities an obligation¹. This Regulation specifies some forms this cooperation could take, such as exchanging information; assisting each other in carrying out audits and inspections; examining difficulties of interpretation or application of this Regulation and other applicable EU laws; studying problems with the exercise of independent supervision or of data subject rights; preparing harmonised proposals for solutions to problems identified; and promoting awareness of data protection rights.

To ensure and facilitate this cooperation, Regulation 2018/1725 provides that the EDPS and national supervisory authorities meet at least twice a year within the framework of the European Data Protection Board. This led to the recent creation of the Coordinated Supervision Committee (CSC).

The Committee can only exercise its activities with respect to those EU large-scale information systems and bodies whose legal acts refer to Article 62 of Regulation 2018/1725 or to the European Data Protection Board, and by implication, to the CSC.

On this basis and due to the recent character of Regulation 2018/1725 the Committee's scope currently covers the Internal Market Information system (IMI)², Eurojust,³ and the upcoming European Public Prosecutor Office (EPPO)⁴, which is expected for December 2020.

Other mechanisms preceding the Committee ensure the coordinated supervision of other EU large-scale information systems and bodies that predate Regulation 2018/1725. The Committee will progressively cover these large-scale information systems and EU bodies in the coming years, insofar as their legal basis are revised. The Committee will also cover the new information systems and EU bodies to be created, such as the European Entry/Exit System (EES) and the European Travel Information and Authorisation System (ETIAS).

The 1st meeting of the Committee was held on 3 December 2019. During its first meeting, the Committee elected Giuseppe Busia from the Italian supervisory authority as Coordinator and Iris Gnedler from the German Federal supervisory authority as Deputy Coordinator for a term of two years. The Committee also adopted its Rules of Procedure.

¹ Article 62 of the Regulation (EU) 2018/1725

² Article 21.3 of the IMI Regulation (EU) 2018/1724

³ Article 42.2 of the Eurojust Regulation (EU) 2018/1727

⁴ Article 87 of the EPPO Regulation (EU) 2017/1939

2. WORKING METHODS

2.1 Distribution of roles

The Committee elects a Coordinator and at least a Deputy Coordinator from among its members for a term of office of two years.⁵

The Coordinator convenes and chairs the meetings, acts as a contact point in CSC matters, sets the draft agenda, carries out all the tasks that have been assigned to him/her in the Rules of Procedure and updates the European Data Protection Board of the work of the Committee at least twice a year. The Deputy Coordinator will perform these tasks if the Coordinator is unable to attend. Both cooperate in liaison with the Secretariat to ensure the smooth functioning of the Committee, prepare the draft agenda, the draft work program and the draft joint report of activities on coordinated supervision the Committee will adopt.⁶

The EDPB Secretariat will also provide the Secretariat of the Committee.⁷ The Secretariat assists the Committee in the performance of its tasks and acts solely in the best interests of the Committee.

The Committee or the Coordinator may designate one or several (co-) rapporteur(s) for specific issues. They will be responsible for the elaboration of documents, incorporating comments into revised drafts, finalizing the document and presenting them to the Committee. ⁸

2.2 Organisation of the meetings

The Committee must meet at least twice a year.⁹ The Coordinator may also decide to convene extraordinary meetings, on its own initiative or at the request of the majority of the Committee's participating authorities.¹⁰ The Secretariat shares the invitations, the draft agenda and the meeting documents with each member of the Committee at least 10 days in advance of the meeting.¹¹ In exceptional circumstances, documents may be distributed later.

Meetings of the Committee can only take place if at least half of the participating authorities or their representatives are attending.¹² The Committee will approve the agenda at the beginning of each meeting.¹³

The costs and the servicing of the Committee's meetings are borne by the EDPB Secretariat.

⁵ Article 3 of the Rules of Procedure

⁶ Article 4 of the Rules of Procedure

⁷ Article 17 of the Rules of Procedure

⁸ Article 8 of the Rules of Procedure

⁹ Article 12.1 of the Rules of Procedure

¹⁰ Article 12.3 of the Rules of Procedure

¹¹ Article 14 of the Rules of Procedure

¹² Article 12.5 of the Rules of Procedure

¹³ Article 13.4 of the Rules of Procedure

The COVID-19 crisis has led EU institutions to adapt to new ways of working and to hold meetings remotely to be able to continue their activity. The Committee has also resorted to remote meetings to hold its meeting of 8 July 2020 and may need to do so again in the future.

In ordinary times, remote meetings can also be a useful way to lighten the agenda of the Committee in-person meetings, improve the Committee's efficiency and the quality of its work. The Committee could organize remote meetings to address matters that could be discussed briefly and/or that could not wait for the in-person meetings. The Committee could leave to in-person meetings matters that may be more complex and require longer discussions.

2.3 Technical tools

The Committee has a functional mailbox within the EDPB mailbox for all correspondences of the Committee. The Secretariat is in charge of handling this functional mailbox, answering questions and requests of members and redirecting emails from third parties to the Coordinator or participating authorities where needed. The Secretariat also uses the functional mailbox to issue the invitations, the draft agenda and the documents for the meetings.

The Secretariat also uses the Confluence system as its main tool for sharing information with the participants. The Committee has a dedicated section with a forum, subsections for each of the CSC meetings, a section for the work items overview, and resources made available and/or produced by the CSC members, such as legal references, interpretative guidelines, best practices and others.

2.4 Communication and visual identity

The Committee will have a dedicated website where all public documents of the Committee will be available.

The Committee also has its own logo, which it uses in all of its documents and its website.

2.5 Dialogue and engagement with controllers, processors and third parties

The Committee should seek, through its activities and meetings, a regular dialogue and engagement with controllers, processors and third parties, including civil society organisations to ensure a comprehensive reflexion on the issues at stake, while always taking into account its role as independent body.

3. PLANNED ACTIVITIES

The Committee has foreseen the following activities in the work program to:

- Ensure that data subjects are able to exercise their rights;
- Reach a common understanding between its participating authorities on their respective scope of supervision, applicable legal basis, and the areas where they need to cooperate and coordinate, from the beginning of the Committee's activities;
- Prepare the Committee's work on the supervision of the European Public Prosecutor's Office and other large-scale information systems that will fall within the Committee's remit in the coming years.

The Committee will be flexible and also work on other activities that may not be included in this work program and that participating authorities may bring to its attention, based on their relevance, urgency or unforeseen character.

3.1 Promote and facilitate the exercise of data subject's rights

One of the main legal tasks of the Committee is to study problems with the exercise of independent supervision or with the exercise of the rights of data subjects and propose solutions to these problems.¹⁴ .

Large-scale EU information systems and networks such as IMI, Eurojust, and EPPO, which connect in a seamless manner EU and national authorities, have a hybrid nature: both national-EU and trans-European. Data may transit and be stored in multiple places and be processed by diverse entities. A data subject may not know at a given point in time if his/her data is being processed at EU and/or at national level and thus to whom address his/her requests.

In this complexity, supervisory authorities must cooperate and coordinate their actions to enable data subjects to exercise their rights effectively. The EDPS and national supervisory authorities must maintain close contact to determine their competence over such requests and refer them to each other where relevant. They must also ensure that any decision they may take further to a data subject's request, such as to rectify or erase his/her personal data, duly takes into consideration any national objection or exception EU and national laws may foresee, for example to preserve the integrity of criminal proceedings.

¹⁴ Article 62.2 of the (EU) Regulation 2018/1725

The Committee will conduct the following tasks under this activity:

- **Revise the information available to data subjects on how they may exercise their rights:** the Committee will take stock of the information currently available to data subjects on the information systems and EU bodies' falling under the Committee's purview. It will also propose changes if necessary to ensure that this information is up to date with the latest developments of EU data protection law and presented in a concise, intelligible and easily accessible form using clear and plain language.
- **Produce a list of national competent authorities for data subjects' request:** the Committee will draw an updated list of national authorities competent to receive requests from data subjects on the systems and EU bodies' falling within its remit with their contact details and make it available to the public.
- **Exchange best practices on data subject's rights and produce guides for the benefit of all supervisory authorities:** national supervisory authorities will have diverse experiences in protecting and enforcing data subject's rights in relation to EU large-scale information systems and bodies. They will put in common their practices and compile those having demonstrated their value and efficiency in a guide.
- **Produce a report with proposals on the exercise of data subject's rights:** The Committee will produce at the end of the programmed period a report with proposals on the exercise of data subject's rights. This report will give the Committee an active role in the creation of a mechanism that streamlines the exercise of data subject rights, and provides data subjects with adequate information and assistance to this end.

3.2 Examine difficulties of interpretation or application of EU and national law

Another legal task of the Committee is to examine difficulties of interpretation or application of Regulation 2018/1725 and other EU laws to their activities in relation to EU large-scale information systems and bodies.

To be able to apply effectively and in harmonized manner EU law to their activities, supervisory authorities need to reach a common understanding on the interplay between EU instruments with a general nature (such as Regulations 2018/1725 and Directive 2016/680) and a specialized nature (such as the IMI,¹⁵ Eurojust¹⁶ and EPPO¹⁷ Regulations).

The application of some of these EU instruments also needs to be reconciled with the application of national law, which may apply for instance to the processing of law enforcement data.

¹⁵ Regulation (EU) 2018/1724

¹⁶ Regulation (EU) 2018/1727

¹⁷ Regulation (EU) 2017/1939

This can be a complex endeavour and bring to the fore differences in the legislation, interpretation of EU law, and practice across EU Member States. Some recent EU instruments, such as the EPPO Regulation, underline the role of the Committee in addressing these difficulties.¹⁸

The Committee will carry out the following tasks under this activity:

- **Conduct a study and produce a report on the interplay between EU and national law and its application to the activities of supervisors:** the Committee will build on recent studies the EDPB is conducting, such as its ongoing study on the national implementation of Article 45 of the LED; input from the Committee members expressed through surveys and questionnaires; and academic research. The Committee's work will result in a report containing concrete proposals that would be ready by the end of the programming period.

- **Monitor the implementation of the framework for the interoperability of EU information systems:** the new rules establishing a framework for interoperability between EU information systems in the field of borders and visa (Regulation (EU) 2019/817) and in the field of police and judicial cooperation, asylum and migration (Regulation (EU) 2019/818), are now progressively being implemented including through implementing acts to be adopted by the European Commission. As several of the concerned information systems will fall under the scope of the supervision activities of the Committee, attention will be paid to the implementation of this overall framework, both from a legal and operational point of view, with a view to ensuring consistency and coherence with the EU *acquis* in the field of data protection.

3.3 Exchange information and conduct joint audits or coordinated inspections

One of the Committee's *raison d'être* is to enable supervisory authorities to exchange relevant information and assist each other in carrying out audits and inspections.¹⁹ Information exchange and mutual assistance are necessary because of the complexity and size of the information systems supervised, the transiting and retention of personal data across various national and EU information systems, and the multiple and diverse data controllers, processors, data subjects and other parties that may be involved.

Supervisory authorities are already experienced in supervising EU bodies and large-scale information systems such as Europol, SIS, CIS, Eurodac and others. Building on this experience, they will be able to identify those processing operations or practices involving personal data in relation to IMI, Eurojust and soon, the EPPO, that require or could benefit from an exchange of information and assistance at European level.

¹⁸ Article 87 of the EPPO (EU) Regulation 2017/1939

¹⁹ Article 62.2 of the (EU) Regulation 2018/1725

The Committee will conduct the following tasks under this activity:

- **Develop general standards or reference frameworks for national audits and inspections:** the Committee will work on identifying key elements and principles to be taken into account by supervisory authorities when carrying out audit and inspections, possibly integrated into general standards or reference frameworks for each information system with a view to ensuring consistency of supervision activities and reporting;

- **Collect information and promote best practices:** the Committee members will be able to draw from their experience supervising EU large-scale information systems and bodies, such as SIS, Eurojust and Europol, information and best practices. For example, the Committee will collect information on the legacy of the Eurojust Joint Supervisory Body (JSB), in particular the activities and reports in relation to the national competent authorities, by coordinating with the EDPS, which took over the supervision at central level. Information and best practices will be collected in a guide or report.

Supervisory authorities and public authorities acting as controllers, such as the European Commission, Eurojust and the EPPO, share their mandate to serve EU citizens. There are potential and still unexplored venues for an effective dialogue between these public authorities that could be beneficial for them and in turn, for EU citizens. Such dialogue should also involve civil society organisation to ensure a comprehensive reflexion on the issues at stake.

The Committee should, through its activities and meetings, ensure a regular engagement with controllers, processors and third parties, including civil society organisations.

3.4 Prepare for the start of the EPPO's activities and other EU bodies and information systems that will fall under the Committee's scope

The European Public Prosecutor's Office (EPPO) is expected to start its operations on December 2020. The EPPO will process in its electronic case management system special categories of personal data and data relating to criminal convictions and offences for its conduct of criminal investigations and prosecutions.

The EPPO's first steps deserve the Committee's attention to help the EPPO and those EU Member States' authorities participating in it ensure that they apply correctly, from the outset, data protection principles such as purpose limitation, data minimisation, limited storage periods, data quality, data security, data protection by design and by default, and relevant data protection safeguards.

Other existing or upcoming systems that will raise similar data protection issues and over which the Committee will become competent during the period (2020-2022) will be:

- The Entry/Exit System (EES): expected for 2021;
- The Schengen Information System (SIS): no later than 28 December 2021;
- The European Travel Information and Authorisation System (ETIAS): expected for 2022;
- The European Criminal Records Information System (ECRIS-TCN): expected for 2022.

The Committee will carry out the following tasks under this activity:

- **Identify based on the current legal framework those areas of the EPPO that could present high risks to individual rights:** although the EPPO has not yet begun its operations, the Committee members will proactively identify those future processing operations or areas that will require their attention and anticipate issues. They will do so based on the EPPO's legal basis and planned set-up, and their experience supervising EU bodies working in similar areas, such as Europol and Eurojust. The Committee will then produce a report with findings and recommendations for the benefit of supervisory authorities and controllers.

- **Prepare the Committee's assumption of the coordinated supervision over SIS:** the Schengen Information System is one of the most complex and widely used large-scale EU information system. It is also one of the biggest databases in the world for the purpose of border control of people and objects. The Schengen Information System II Supervision Coordination Group ("SIS II SCG") has so far ensured its coordinated supervision, although it will pass the baton to the Committee by December 2021, as envisaged. To be fully prepared for this moment, the Committee will dedicate special items in its meetings and channels of information to this transition, and ensure the transfer of knowledge and experience between the SIS II SCG and the Committee.

- **Follow the preparation of the new large-scale EU Information Systems:** the Committee must prepare for the entry into operation of the EES, ETIAS, and ECRIS-TCN, in 2021 and 2022. These systems are of a technical and complex nature and raise especially sensitive data protection issues owing to the foreseen interoperability between them. The Committee will also foresee dedicated items in its meetings to these systems and invite representatives from the controllers and other technical experts to discuss its future operations and identify high risks in relation to data protection.