Main topic of the meeting: Directive (EU) 2016/680

1. Introduction by the European Commission

The Chair (Head of Unit C.3 of DG Justice and Consumers) opened the meeting by explaining the functioning and the objectives of this expert group. It is composed of 28 Member States of the European Union, EEA countries (Iceland, Norway and Liechtenstein) and Switzerland. It shall serve as a forum for the exchange of views and information between the Commission and the members of the expert group on the application of Regulation (EU) 2016/679 (General Data Protection Regulation) and of Directive (EU) 2016/680 (Data Protection Directive for Police and Criminal Justice Authorities). The Commission then explained its proposal for rules of procedure, drafted according to the standard template annexed to the Commission decision on horizontal rules for expert groups. Some Member states showed concerns about some provisions of the rules of procedure and wanted more time to reflect on them. The Chair therefore decided to withdraw the adoption of the rules of procedure from the agenda and to adjourn this point for the next meeting.


As this meeting was devoted to the Directive (EU) 2016/680, the Commission presented the main features of the Directive. A fruitful discussion followed, with a goal to collect main issues concerning the transposition of the Directive, which could be discussed in greater detail in subsequent meetings. The points raised were as follows:

- Delineation between the Regulation (EU) 2016/679 and the Directive. As an example, the situation of data controllers from the financial sector, normally covered by the Regulation, with quite strong reporting obligations related to suspicious financial activities derived from anti-money laundering legal instruments needs to be clarified.
- Different approaches on the powers and competences of the supervisory authorities resulting from the Regulation and the Directive.
- Requirements for the appointment of a Data Protection Officer.
- How to implement in practice the principle of data protection by design.
- Rules on different categories of data subject (Article 6).
- Distinction between personal data (Article 7).
- International transfers and transfers to private entities in accordance with Article 39.
- Limitations of data subject rights.
- Rights of the data subject in criminal investigations and proceedings (Article 18).
- Role of the European Data Protection Board in the Directive.
- Different approaches on how to deal with some administrative competences, like firearms licenses.
- Special position of Denmark and the position of third countries with regard to the Directive.
- How to deal with specific authorities (i.e. forest authorities) with enforcement capabilities.
- Article 61, international cooperation agreements, guidance on provisions to be included in bilateral or multilateral agreements.
- The difference between the rules on international cooperation in the Regulation and the Directive (Article 40 of the Directive/Article 53 of the Regulation).

Member States also reported on the current state of play in the transposition process. Some of them are in a very advanced stage of the transposition. Others are in a very early stage, organizing working groups or meetings with stakeholders.

On the means of transposition, some Member States will use one legal instrument for specifying the Regulation and transposing the Directive. Others will adopt two separate legal instruments. Finally, some Member States will combine one of the two previously mentioned solutions with amending existing sector-specific legislation.

3. Umbrella Agreement

The Commission also reported on issues related to the application of the EU-US Umbrella agreement, in particular on the scope of the Judicial Redress Act and its applicability as well as about the explanatory notes that will be exchanged with the US related to the designation of the respective competent supervisory authorities. The Commission asked the Member States to identify national supervisory authorities carrying out the tasks and having the powers as referred to in Article 21 of the Umbrella agreement (and about any changes they foresee in light of the entry into force of the Directive).