Main topic of the meeting: Regulation (EU) 2016/679

1. MS implementation state of play

MS provided updates on their legislative process in view of the application of the GDPR on 25 May 2018.

2. Discussion on which national law is applicable in cross-border cases

The exchange of views showed that a mapping is necessary to understand which MS will use the "establishment" and/or "residence" criteria and for which provisions (e.g. Art 8; Art 9(4); Art 85). COM should collect the feedback through means of table.

3. Discussion on certification

Art 43(1) GDPR provides that MS must ensure that the certification bodies are accredited by one or both of the following: (a) the supervisory authority which is competent pursuant to Article 55 or 56; (b) the national accreditation body named in accordance with Regulation (EC) No 765/2008. Some MS indicated that they will appoint only the DPA as the authority in charge of accrediting certification bodies for GDPR while other MS have chosen the national accreditation body for this while some have provided for both the DPA and the national accreditation body. Some MS are still assessing the situation.

4. Discussion on relation between "appropriate safeguards" and "technical and organisational measures"

Exchange of views in order to find a common understanding of the terms "appropriate safeguards" and "technical and organisational standards". The GDPR uses both terms. The common understanding was that "appropriate safeguards", when they are to be provided by the legislation in (e.g. Art 9 (2)(b), Art 10) should be formulated in such a way that they do not prescribe in detail "technical and organisational measures", which should be implemented by controllers/processors in line with the principle of data protection be design and by default. Appropriate technical and organisational measures should, on the basis of article 25 GDPR be corresponding to the state of art at the moment of their implementation. In particular in very fast moving digital sector new solutions providing for appropriate technical and organisational measure will be constantly changing and developing. The national legislation should not in general block such developments by referring to concrete technical solutions at the moment of
the enactment of such national legislation unless this is absolutely necessary for the fulfilment of the purposes of the law.

5. **Data Protection Officers**

The discussion revolved around the concept of "public body" and its definition under national law.

6. **Data Protection Impact Assessment**

The question raised by one delegation concerned whether for processing already under way on the day of application of the GDPR (25/05/2018) controllers had the obligation to conduct DPIA. The WP29 already indicated that "the requirement to carry out a DPIA applies to processing operations meeting the criteria in Article 35 and initiated after the GDPR becomes applicable on 25 May 2018." However, WP29 strongly recommends carrying out DPIAs for processing operations already underway prior to May 2018 as a matter of good practice and accountability.

7. **Records**

The discussion concerned to which entities the exemption from keeping records is applied and whether this can cover public bodies. It was clarified that this applies to private sector.

8. **Processing for scientific or historical research**

The different rules with a specific focused on research (e.g. further compatible processing – "privileged purposes"; restrictions to rights) were passed in review. Some MS are considering making use of the provision of Art 89 (2) for restricting rights in research context.

9. **Administrative fines and penalties**

The discussion revolved around possible calculation methods for fines, what happens with provisions of the GDPR not covered by the rules on administrative fines (e.g. Art 10 GDPR) and what is the relationship between administrative fines and criminal offences also in relation to the non-bis in *idem* principle. COM pointed out to well-established case-law providing that Art 50 Charter does not preclude a MS from imposing, for the same acts, a combination of administrative and criminal penalties (C-617/10; para 34-37 and case-law cited therein).