

**Attendance: 8**

Alan Woods	Georgios Tselentis
Amr Elsadr	Kurt Pritz
Ashley Heineman	Mark Svancarek
Diane Plaut	Stephanie Perrin

**Apologies:**

Marika Konings

**Staff:**

Caitlin Tubergen	Terri Agnew
Berry Cobb	

Terri Agnew: Welcome to the first of two Small Team to discuss the letter to the EDPB on Thursday, 29 November 2018 at 18:00 UTC for 60 minutes.

Mark Svancarek (BC): I think that's called "lurking"

Terri Agnew: Welcome Amr

Amr Elsadr (NCSG): Hi Kurt, Terri and all.

Stephanie Perrin: Hi everybody

Terri Agnew: Welcome Stephanie

Diane Plaut: Yes, great

Amr Elsadr (NCSG): Sounds good.

Amr Elsadr (NCSG): Yeah, that's my understanding as well.

Kurt: The EDPB does not provide individual consultancy services. Please note that individuals or organisations with questions related to data protection law are advised to consult the website of the Supervisory Authority in the country where they are based. (For EU Member States:

[https://urldefense.proofpoint.com/v2/url?u=https-3A\\_edpb.europa.eu\\_about-2Dedpb\\_board\\_members-5Fen&d=DwlCaQ&c=FmY1u3Pjp6wrcrwl3mSVzgfkbPSS6sJms7xcl4I5cM&r=DRa2dXAvSFpClgmkXhFzL7ar9Qfqa0A1gn-H4xR2EBk&m=RT4T2r31iFDd9JVjPmXlrr1vZUTk-7Ooe1Q\\_A5gzkE8&s=kAH1j5VUdW6OoWx-NnDAQ8Icl4Ni3xtg9uasSqbKsU8&e=.](https://urldefense.proofpoint.com/v2/url?u=https-3A_edpb.europa.eu_about-2Dedpb_board_members-5Fen&d=DwlCaQ&c=FmY1u3Pjp6wrcrwl3mSVzgfkbPSS6sJms7xcl4I5cM&r=DRa2dXAvSFpClgmkXhFzL7ar9Qfqa0A1gn-H4xR2EBk&m=RT4T2r31iFDd9JVjPmXlrr1vZUTk-7Ooe1Q_A5gzkE8&s=kAH1j5VUdW6OoWx-NnDAQ8Icl4Ni3xtg9uasSqbKsU8&e=.)))

Ashley Heineman (GAC): I think Georgios is trying to get in the queue as well.

Kurt: thanks - Georgios is in the queue

Stephanie Perrin: Exactly

Ashley Heineman (GAC): I just went to the EDPB website as well and under their "tasks and responsibilities" it states: provide general guidance (including guidelines, recommendations and best practice) to clarify the law

Mark Svancarek (BC): +1 on the proposal specificity

Amr Elsadr (NCSG): @Ashley: I don't think that's meant to be on an individual basis. Isn't that meant to reflect the kind of guidelines they just published on territorial scope? I might be wrong, but don't think so.

Kurt: @Ashley - I read "general" guidance meaning the posting of guidelines

Amr Elsadr (NCSG): @Kurt: +1

Diane Plaut: Article 36 - Prior Consultation

Stephanie Perrin: Exactly Kurt. As Alan just pointed out, they are not a data protection consultancy. They have a lot of power, they need to remain very general in their advice, in case they have to rule on a complaint.

Amr Elsadr (NCSG):I like where Alan is going with this. Seems like the most sensible way forward to me.

Stephanie Perrin:It is not tlike the Charter took any notice of the appropriate role of the EDPB

Stephanie Perrin:Supervisory authority would be the relevant DPA. In this case. the Belgians

Diane Plaut:That is the right section - it is the Supervisory Authority in each Member State - the DPAs

Kurt:@Stephanie - why the Belgians?

Amr Elsadr (NCSG):Was wondering the same. Because ICANN has an office there?

Stephanie Perrin:Because ICANN head office is in Brussels....the Belgian DPAs are in charge of any advice and will respond to complaints. I believe they have already sent detailed questions to ICANN (yet another document I would like to get a copy of)

Kurt:What about Turkey?

Stephanie Perrin:I say DPAs because they have a unique situation, they also have a DPA for law enforcement. Former cop, not sure what his title i,s might be an assistant DPA....

Amr Elsadr (NCSG):Turkey is not in the EU.

Stephanie Perrin:This method of operation actually follows on the procedures devveloped for binding corporate rules under the previous directive.....so to my way of thinking, a logical maturation of a system that appeared to be working

Stephanie Perrin:Yes the role of DPAs in the EEA are somewhat different.

Stephanie Perrin:EEA= European Economic Area

Stephanie Perrin:I am working on a redline version of the letter,where I draw a line and cut off quite a bit of the material. If you really want to include your questions, I would advise putting them in an appendix, saying that these are questions which we are still pondering.....don't ask them to give the committee advice on things where we cannot find consensus. As Alan says, they are busy people and some of these questions reflect the immaturity of our thinking, I regret to say.

Diane Plaut:My issue as well is - the first question they will believe that they have answered already and will not understand why we are asking it again, and why we are looking for specific instructions about implementation - that is not their role. They gave general guidance ahead, as Alan pointed out we have if anything to present a proposed set-up model, as Mark is nstating

Mark Svancarek (BC):Abbreviated report seems practical and useful

Stephanie Perrin:WEll I figured I had better put my drafting pen where my mouth was...

Diane Plaut:Agreed Alan, they are going to think whyvare you contacting us, so just sending the report - Kurt, didn't you explain the other day that it is part of the process of the EPDP that we automatically under the policy send them a copy of the report?

Stephanie Perrin:I cannot see anything but risk, no benefits in sending a letter.

Stephanie Perrin:You could send a simple note saying we have an interim report out for comments just FYI. Might be considered polite, still contins risk

Ashley Heineman (GAC):Kurt on mute?

Mark Svancarek (BC):lol

Amr Elsadr (NCSG):@Diane: +1

Diane Plaut:I have already sourced legal counsel who would be interested in supporting our efforts at discounted prices

Amr Elsadr (NCSG):WSGR.

Amr Elsadr (NCSG):Brussels office of WSGR.

Diane Plaut:We likely should not use counsel that ICANN has previously found problematic or ignored

Amr Elsadr (NCSG):I don't recall WSGR's work to be problematic?

Ashley Heineman (GAC):What about the folks that assisted earlier on in the GDPR discussion? The ones that did the original analysis.

Stephanie Perrin:Ok I will send you the markup with options...

Stephanie Perrin:give me a few more hours, have to research what we have actually done in response to the last letter from jelinek so we can make a slightly more substantive reference.

Amr Elsadr (NCSG):Sounds good.

Diane Plaut:Great

Ashley Heineman (GAC):P.S. - the questions need work. :-)

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Ashley Heineman (GAC):Unless you are referring to those in the report.

Stephanie Perrin:Exactly, that SOW really does not need a whole lot of work...although the questions do....

Diane Plaut:Should there be thought to have a legal counsel available for a session during our F2F?

Ashley Heineman (GAC):sign me up. :-)

Amr Elsadr (NCSG):If we can have answers to the questions in time for the F2F, that'd be great.

Diane Plaut:Great

Amr Elsadr (NCSG):From legal counsel, I mean.

Amr Elsadr (NCSG):SOW should include the ability to send follow-up questions to answers we receive.

Stephanie Perrin:I think this is fine, no promises to have a finished note for the next call but I will aim for it.

Diane Plaut:Thank you Kurt and all

Amr Elsadr (NCSG):Thanks all. Bye.

Ashley Heineman (GAC):Bye!

Stephanie Perrin:I am sure Thomas will have views on both the letter, and the questions for counsel