

BSA - International Forum

Monday 12 November, 9-10am

Meadowood, Napa Valley

Speech followed by Q&A moderated by Shaundra Watson, Director, Policy, in Washington, DC

Dear BSA Board Members,
Dear Ladies and Gentlemen,

It is an honour for me to attend your Annual Meeting this morning and to address you on the EU's new data protection legislation, the General Data Protection Regulation (GDPR) and on the work carried out by the European Data Protection Board in the past five months

I am sure everyone here present is very familiar with the GDPR, but not all of you might be fully aware of how the European Data Protection Board operates and how it is different from its predecessor, the Article 29 Working Party (WP29). I will therefore explain in further detail what our role is, how we operate and what our experience has been so far. If you'll allow, I will conclude by asking you some questions myself.

Our visit to San Francisco and the Bay Area this week offers us an excellent opportunity to engage with thought leaders of (what is) one of the world's most vibrant and influential technology hubs. I therefore very much hope this is going to be a productive two-way conversation. I am most interested in finding out more about your experiences with data protection here in the US, and I would like to hear more about your experiences with the GDPR. From my side, I cannot promise to answer all your questions, for reasons of confidentiality or because the Board has not yet adopted an official position. However, I will most definitely take note of your concerns and priorities and share them with the other members of the Board.

As Chair of the European Data Protection Board, which brings together the national supervisory authorities and the European Data Protection Supervisor, my task is to make sure that all Board members work together closely to ensure the consistent application of the GDPR. In addition, we provide guidance to the public and stakeholders by issuing guidelines, recommendations and best practices.

The EDPS, led by my esteemed colleague Giovanni Butarelli, whom some of you met at your Annual Meeting a few years ago, is a member of the Board, and at

the same time provides the Board with a Secretariat of dedicated staff that provide legal and logistical input to the Board.

The European Commission, unlike in the previous WP29 constellation, is not a full member, but an observer without voting rights.

To prepare the entry into application of the GDPR on 25 May, 18 sets of guidelines on all novel aspects of the GDPR were adopted following broad public consultations and we hope to adopt more soon on other topics soon.

Over the Summer we concluded a first major consistency exercise: we adopted 22 opinions, based on common criteria, on the Data Protection Impact Assessment (also known as DPIA) lists of the national supervisory authorities. Each national data protection authority in Europe is required not only to produce a list of processing operations subject to a DPIA according to the GDPR, but also to communicate this list to the EDPB for an opinion. The opinion of the EDPB aims to bring more consistency between the lists of the national supervisory authorities, which will help the businesses that conduct processing activities in several European countries. The supervisory authorities now have to adapt their lists in line with the opinion of the Board.

I single out this example because – while it might seem a very technical exercise - it shows very well the type of very useful and concrete work we as Board can and must deliver to help ensure consistency between the national regulators and to help businesses and organisations to be GDPR compliant.

It is not my aim today to give you a full overview of all guidance that was adopted or of all the consistency exercises we have been involved in. Instead, as I mentioned, I want to explain the role of the EDPB and of the national regulators in the context of the GDPR.

The new way of working under the GDPR requires all authorities to engage in intensive debate. Supervisory authorities wear two hats: they are independent national regulators, with powers of their own. But, at the same time, together they now form the European Data Protection Board. Contrary to a common misunderstanding, the Board is not a supranational regulatory authority, but an EU body composed of national regulators working together at equal footing to ensure consistency between their actions. A strong legal framework is insufficient without strong oversight. The change from WP29 to EDPB is not just

a name change. The national regulators and the European Data Protection Board have a more important and more powerful role than in the past.

Now, let me shed some light on the new way national regulators cooperate under the GDPR. In certain cross-border cases, the “One Stop Shop” procedure applies, enabling one lead national supervisory authority to issue one single decision, having effect in all concerned Member States. The lead supervisory authority has the duty to cooperate with all concerned authorities. The EDPB does not intervene at this stage of cooperation between national authorities. It is only if a dispute occurs between the lead and the concerned authorities that the EDPB will intervene for dispute resolution, by issuing a binding decision.

This is what we call the consistency mechanism. So far, not a single cross-border case has been escalated to the EDPB level and it is very much possible that, most of the time, the supervisory authorities will achieve consensus prior to entering into the dispute-resolution stage.

Our experience so far is that the GDPR works well, but, as any new legal act, it requires time and resources, especially in its early stages of implementation. Most supervisory authorities have seen their workload double since 25 May with a steep increase in the number of complaints and reported data breaches. We currently have 184 cross-border cases that the various national regulators are dealing with.

In addition, the awareness around data protection issues with the general public has increased substantially in the past months. Revelations, such as Cambridge Analytica, have fuelled the public debate on how to guarantee data protection rights, freedom of speech and free access to information without manipulation in a democratic society.

We notice that other countries are engaging in a similar debate, whereby a balance needs to be found between a functional economy, on the one hand, and overarching individual data protection rights, on the other.

Thank you and I’d now very much like to hear your thoughts. Over to Shaundra Watson, who will be our moderator today.

Sample questions for debate with the Chair

- Have you managed to turn GDPR compliance into a competitive advantage? How did you do this? What are your findings?
- What has been the biggest challenge leading up to [25 May](#)? (Was it a challenge to implement Privacy by Design/Default?)
- What have been the biggest surprises post-25 May (in positive and negative sense)?
- Have you seen an increase in complaints / requests (e.g. for access, for erasure)?
- Do you apply GDPR worldwide or work with different standards?
- How has GDPR impacted your supply chain? Have you gotten pressure from your customers? Have you yourself asked your suppliers to make changes?