

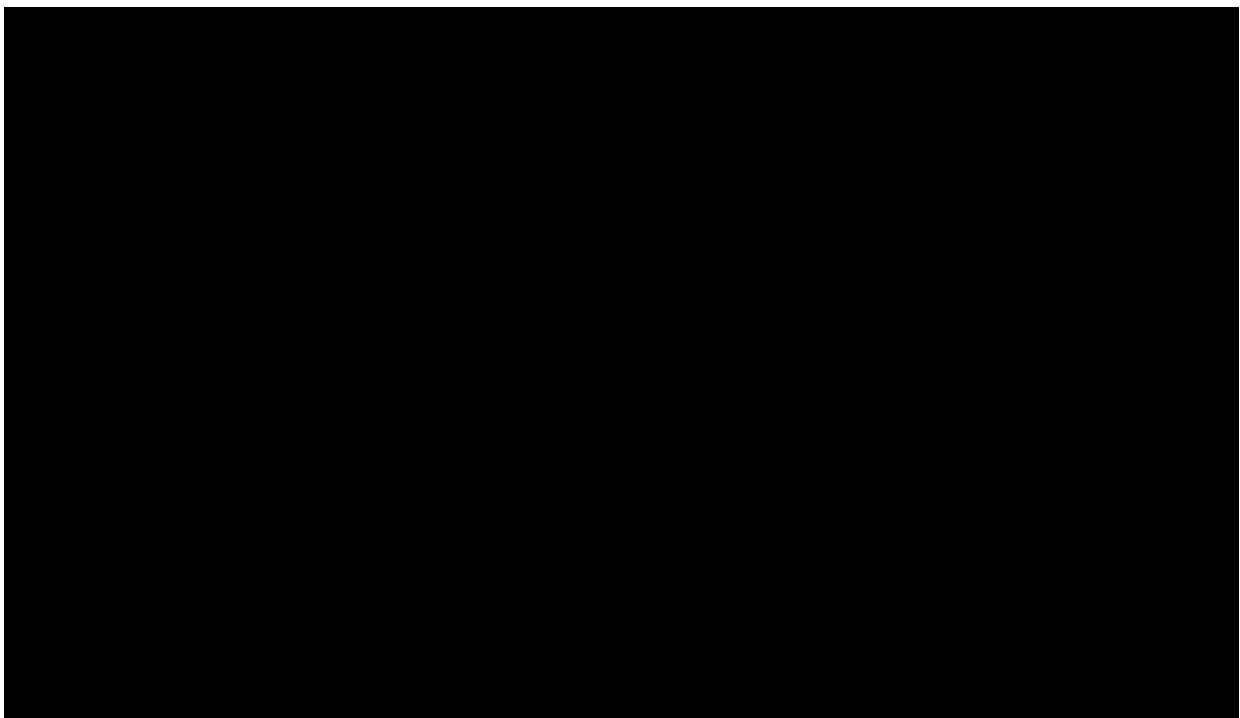


Final

ITS Expert Subgroup meeting

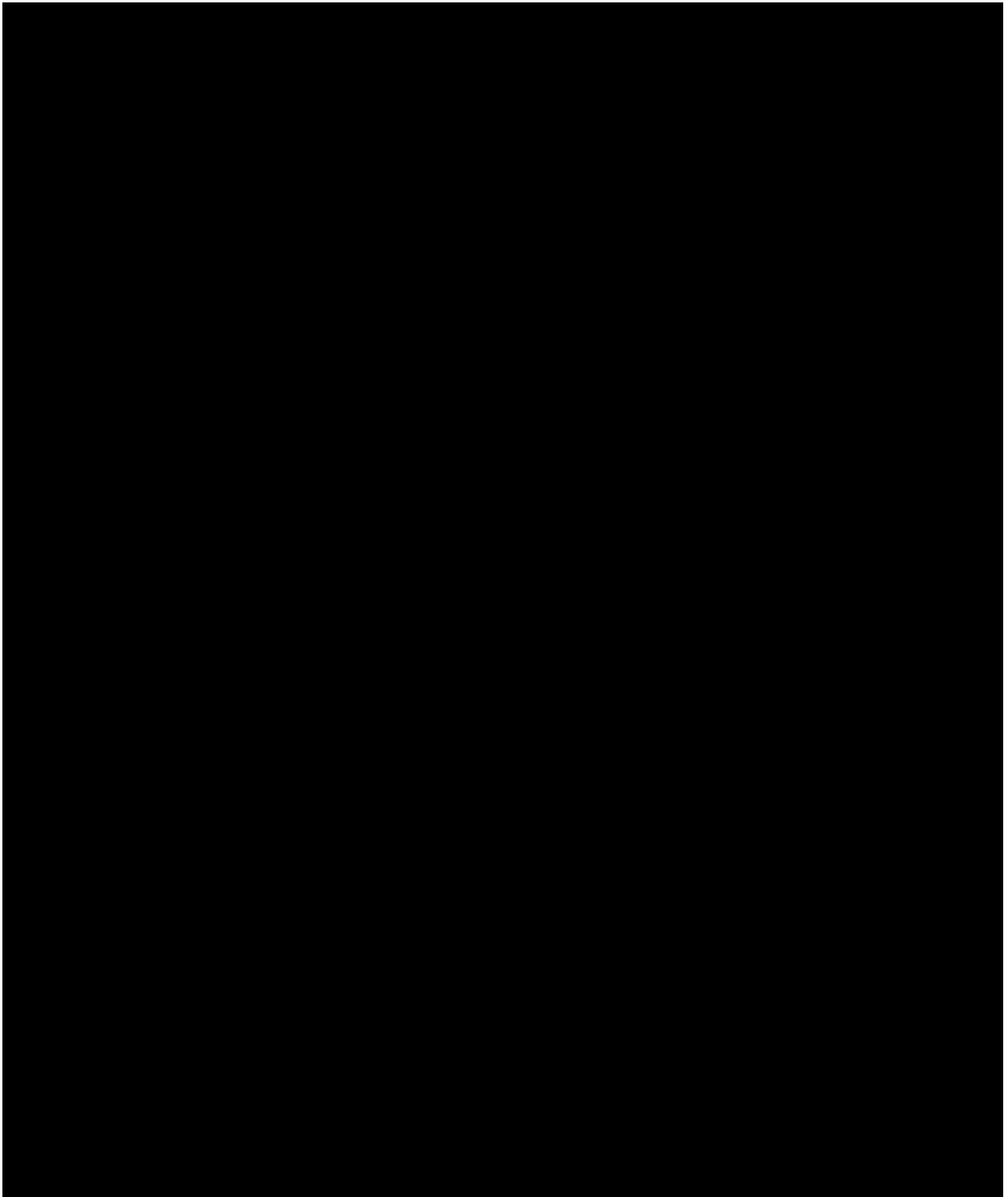
9-10 February 2021, Remote meeting

9 February 2021

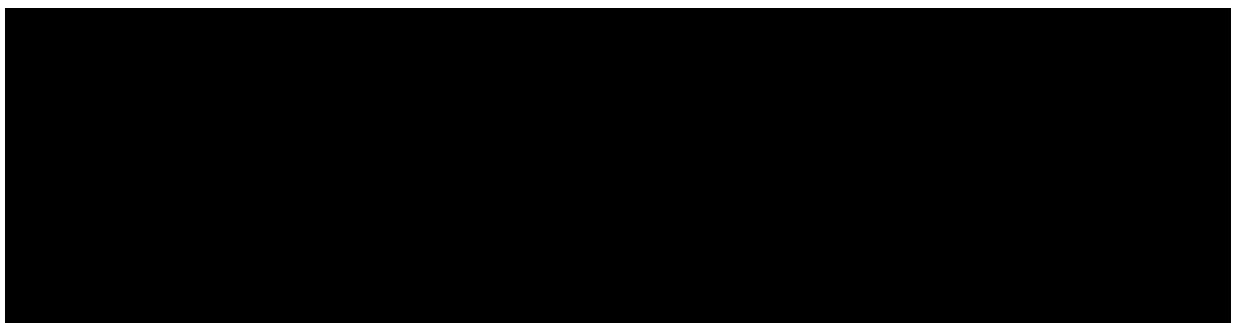



3. Exchange of experiences on Schrems II

One ITS ESG member mentioned recent oral statements made by one CJEU judge at an international conference, during which that judge shared personal views on the *Schrems II* judgment and on the application of the Article 49 GDPR derogations. There was consensus between the ITS ESG members that it follows from the GDPR that derogations are to be interpreted restrictively and should therefore not become the rule. Derogations cannot be the solution for systematic transfers for which the requirements of the Schrems II judgment cannot be met.

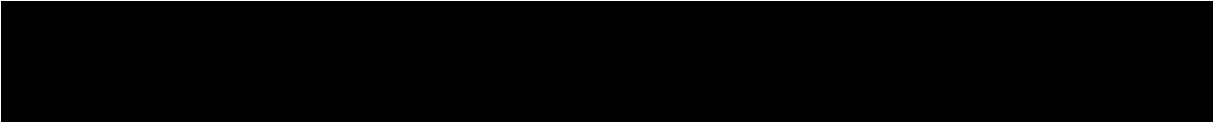


5. Codes of Conduct as a tool for transfers





In the end, at this stage, the ITS ESG members favoured to leave the parties with the choice to determine which option is the most adapted to their situation. The rapporteurs will integrate this element in the draft guidelines.



If the draft guidelines are finalised on time (with discussion points submitted to the Plenary, if needed), they will be submitted to the April 2021 plenary meeting either as a draft for discussion or for adoption.


The ITS ESG members were invited to share written comments by 16 February 2021.



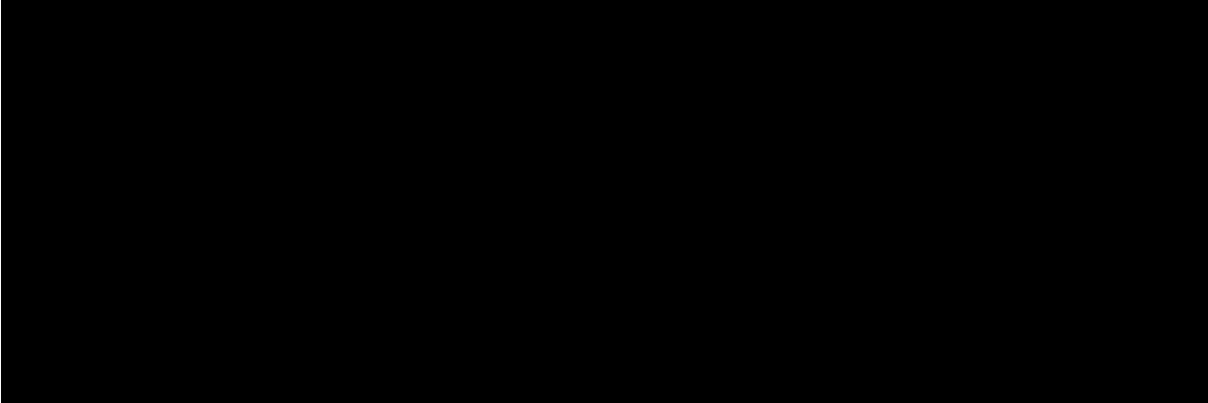
7. CRS/FATCA agreements and Article 96 of the GDPR

The ITS Coordinator presented a draft EDPB statement that invites Member States to review their international agreements concluded before GDPR to align them with GDPR requirements, and remind them that, according to Article 96 GDPR, international agreements currently in place, would still remain valid until amended. The ITS ESG members were invited to discuss this draft.

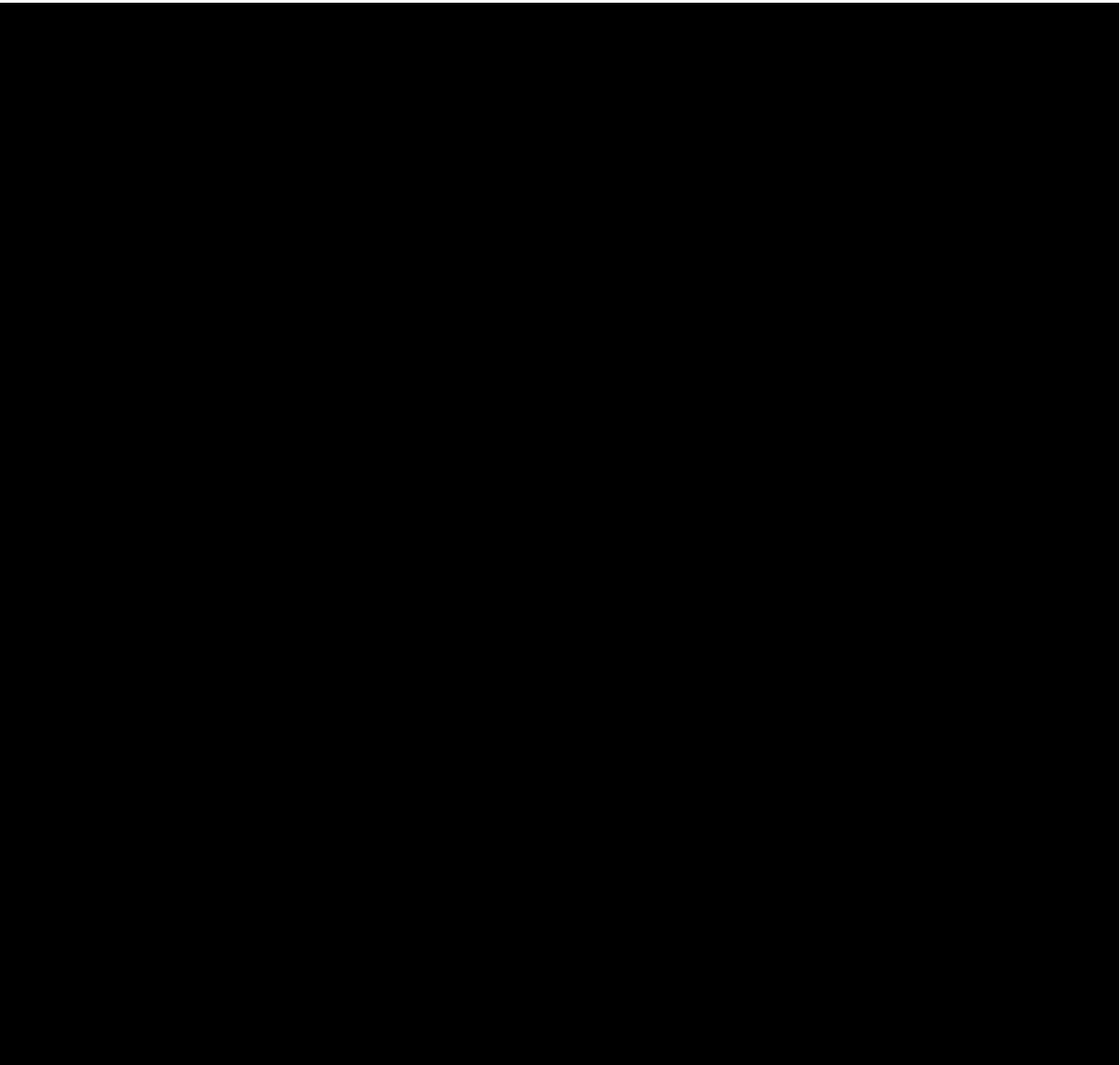
One ITS ESG member proposed to change the structure and provide additional examples to the automatic exchange of data for tax purposes. Another member of the ITS ESG suggested changing the way the issue is presented by starting with the fact the EDPB issued guidelines on transfers between public authorities, which also cover international agreements, and carry on with Article 96 GDPR, calling on Member States to review, and if necessary align, their international agreements against the GDPR framework and the relevant EDPB guidelines.

 suggested that the draft statement refers to data protection law in general to also cover the LED, and questioned the relevance of specifically highlighting the automatic exchange of data for tax purposes in a general statement. The ITS Coordinator expressed the view that this example should be kept as part of the statement, but suggested adding additional ones. On that point, one ITS ESG member suggested the area of social security as another example.

The ITS ESG members were invited to share written comments on the draft statement by 19 February 2021. The ITS Coordinator will then circulate a new version of the statement for a possible adoption at the March 2021 Plenary, or, if not possible, at the April one. The members of the ITS ESG considered that the supporting information provided EDPB members ahead of the Plenary should clarify that the draft statement is a contribution provided by the ITS ESG, upon request of the FMESG.



10 February 2021





Annex: Attendance List

SAs: AT SA, BE SA, BG SA, CZ SA, DE SA, DK SA, EDPS, EL SA, ES SA, FI SA, FR SA, HR SA, HU SA, IE SA, IT SA, LI SA, LT SA, LU SA, LV SA, MT SA, NL SA, NO SA, PL SA, SE SA

- European Commission
- EDPB Secretariat