

Privacy Shield Ombudsperson Mechanism Questions for Article 29 Working Party

Role of EU Individual Complaint Handling Body

1. Thank you for confirming that the Article 29 Working Party is the designated "EU Individual Complaint Handling Body." Who will serve as the Ombudsperson's staff primary point(s) of contact and where will the contact(s) be located?

The Article 29 Working Party (WP29) has chosen the Data Protection Authorities of A, B, and C (D and E) to serve as the DPAs to make the EU Centralised Body operational in its initial stages. The EU Centralised Body (EUCB) can be contacted through the newly created email address XXX, which will be administered by the Chair of the WP29. WP29 will provide notification of any changes to the DPAs or other supervisory authorities involved in the EUCB.

2. We understand some member state data protection authorities DPAs intend to serve as the first point of contact with relevant EU individuals who wish to submit a complaint. Will the EU Individual Complaint Handling Body also receive complaints directly from EU individuals?

No, it is the understanding of the WP29 from Annex III that requests have to be submitted initially to a national supervisory authority either with oversight for national security services or the processing of personal data by public authorities. The WP29 agrees that it should always be the task of the national supervisory authority to verify the request. The role of the EUCB is, in the view of the WP29, limited to ensuring consistency regarding the process of verification, checking the complaint is complete, serving as the single point of contact with the U.S. side and transmitting the request to the Ombudsperson.

3. For complaints submitted as an initial matter to a DPA, what is the process for transferring those complaints (and the relevant personal information that accompanies a complaint) to the EU Individual Complaint Handling Body?

Requests will be verified by the national supervisory authority and, only once it has been verified and all necessary determinations are made will it be

forwarded to the EUCB, which will ensure that the verification etc. is done consistently. The EUCB will transmit all requests to the Ombudsperson.

4. How will the EU Individual Complaint Handling Body verify that (a) an individual is eligible to submit a complaint under the Privacy Shield Ombudsperson mechanism and (b) the request is "complete" as defined in Section 3.b. of Annex A of the Privacy Shield Framework?

The national supervisory authority will check the identity of the requestor. It will also require that the requestor provides any relevant selector search term and as well as confirmation as far as reasonably possible that such search terms belong to the requestor. As to the other requirements not related to the identity, the supervisory authority will assess whether the information provided is sufficient in light of section 3.b of Annex A. The requestor will have to ensure in the request form that all relevant information is correctly provided.

Ombudsperson Mechanism Submission Portal

1. At the December 2016 plenary meeting, we shared our decision to establish a password-protected portal accessible by a small number of individuals acting on behalf of the EU Complaint Handling Body, each with a unique user account, to transmit Ombudsperson Mechanism review requests. How many people do you envisage having responsibility for submitting Privacy Shield Ombudsperson requests to the United States?

The WP29 welcomes the confirmation that Department of State has established a platform which will help to make the transmission of information easier. The EU DPAs which make up the EU Centralised Body should have access to this platform. Only a limited number of staff in each DPA will be granted access to the user account.

2. In our experience, using individual points of contact and their email addresses at the Article 29 working party is not efficient, given that people can be absent due to issues such as illness or vacations, or may change jobs. Do you have a group email address or listserv for us to send confirmations of receipt and other correspondence related to submissions to the portal?

We will ensure that those DPAs which act on behalf of the EU Centralised Body create a new email address for that purpose / that the Chair will create a new email address for that purpose.

3. The EU Complaint Handling Body will need to upload copies of the original request, an English translation if the original request is in a language other than English, and any related documents for the Ombudsperson (not to include information provided for verifying the individual requestor's identity or unrelated contact information). We want to ensure that our system is compatible with any information you submit. What formats (.pdf, .docx, etc.) does the EU use for maintaining documents?

We understand that the EU Centralised Body will transmit via the platform of the State Department all information needed to show that the request is complete. It is suggested that we are enabled to upload a standardized document, in the form of a .pdf, which includes all relevant information. As agreed in the last plenary meeting, this will not, however, include any information provided by the requestor to prove his or her identity, but simply confirmation that it has been verified by the appropriate supervisory authorities.

4. Have you received any Ombudsperson-related requests yet? If so, when would you expect to be able to evaluate them and, if they are found sufficient, submit them to us?

The WP29 is only aware of one request which, in the current form, has not been found to be within the scope of the Ombudsperson mechanism and has thus been rejected.

