



Report on Mr Akama's visit

Venue: EDPS premises

Date: 11 July 2017 - 14.30.

EDPS participants: GB, WW, [REDACTED], [REDACTED], [REDACTED]

Visitors: Mr. Jiro Akama, State Minister of Internal Affairs and Communications (MIC)

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Case file number: 2017-0678

Main issues discussed:

GB as an introduction welcomed the idea of a free trade agreement between Japan and EU and a possible adequacy decision. He mentioned the G7 meeting in Taormina and the high-level conference in Tokyo held 2 years ago as a good starting point for cooperation in the field of free trade and data flows. EDPS as a special advisor to the EU supports the COM communication that prioritises the agreements with Japan on free flow of data and on the free trade. To express his support EDPS had the third meeting last week with the colleagues of the Personal Information Protection Commission of Japan (PPC). EDPS found the survey very impressive showing that only 3 % of the Japanese companies are not interested in the GDPR, the other's either interested or fall under the scope of the GDPR, as they have establishment in the EU or provide products and services to the EU. EDPS also highlighted that data protection and privacy, as fundamental rights, are non-negotiable should stay out of the scope of a trade agreements negotiations, but it is not an obstacle, it is just the process how to achieve the goal. EDPS advised not to be identical, but find their own way to fulfil the requirements as Japan has its own culture.

Mr Akama explained that the Japanese companies raise many questions regarding the GDPR, they are looking forward the guidelines that are being elaborated by the WP29. It is very important for them to get some clarification on what the border is between personal data and non-personal data. He gave some information on the Japanese data protection act, which is applicable as of 30 May 2017 and it means that PPC became the centralised authority supervising data protection issues. The Ministry closely cooperates with the PPC who received many requests from the controllers which shows a high level of awareness. He also expressed the high interest in IoT especially, how to provide safe and secure data processing and to let data subjects to control their own personal data in the world of IoT.

Answering Mr Akama's questions EDPS highlighted that the adopted guidelines of the WP29 remain relevant after 25 May 2018 and will be completed by other guidelines issued by EDPB. Regarding the border between personal data and non-personal data, the GDPR follows the notion of personal data stated in the Directive 46/95. Although the doctrine of the personal data remains valid, we consider



working more on this field, but it would raise three risks: (1) time pressure, (2) to be prescriptive, (3) accountability.

EDPS identified four short message for consideration:

1. EDPS invited PPC to discuss data protection in detail.
2. EDPS suggested to provide more information on duties, powers and independence of the Japanese PPC. Independence is a highly important issue, which was challenged several times before the ECJ, and the statements of the ECJ on independence are applicable during an adequacy procedure.
3. ECJ expects the same level from every stakeholder. To comply with the principles is not enough in itself; the overall picture shall be adequate.
4. EDPS is responsible for the supervision of large-scale data basis and a bilateral cooperation with the Japan can be considered.

EDPS explained that the Safe Harbour decision with the US was unsuccessful. The success of the adequacy decision with Japan would be a success and a good benchmark for Japan and it would accelerate other bilateral negotiation procedures and agreements.

Follow-up:

- Consider closer cooperation and relationship with the PPC in Japan.