

New Watchdog, New Tricks: European Data Protection Board Adopts GDPR Guidelines and Releases Statement on ePrivacy Regulation

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Less than one week after replacing the now defunct Article 29 Working Party (WP29), the European Data Protection Board (EDPB) has adopted new guidelines on the EU General Data Protection Regulation (GDPR) and issued a statement on the ePrivacy Regulation revision.

What is the European Data Protection Board? How is It Different from the Article 29 Working Party?

The EDPB is made up of the head/representative of each of the EU national supervisory authorities, the European Data Protection Supervisor, and a non-voting member of the European Commission. The Board is tasked with ensuring the consistent application of GDPR by monitoring and ensuring the correct application of the GDPR, issuing guidelines, recommendations, and best practices regarding GDPR requirements, and approving data protection certification mechanisms encouraged under the GDPR, among other things. While the structure of the EDPB resembles that of the WP29, unlike the WP29, the EDPB has the power to adopt binding decisions to ensure the correct and consistent application of the GDPR.

What's New on the European Data Protection Board Front?

The EDPB is carrying out its mandate to ensure a consistent level of data protection for individuals and the consistent application of GDPR by taking following steps:

- Endorsing [GDPR material issued by the WP29](#) (*i.e.*, WP29 guidelines, recommendations, working documents, and referential).
- Adopting a [draft version of the Guideline on certification](#), which explains key concepts of certification provisions under GDPR Articles 42 and 43 as well as the scope and purpose of certification. The deadline for comments (which should be sent to EDPB@edpb.europa.eu) is July 12, 2018.

- Adopting the [final version of the Guidelines on derogations applicable to international transfers](#), which provides guidance on the application of GDPR Article 49 on derogations when transferring personal data to third countries or international organizations.
- Releasing a [statement on the revision to the ePrivacy Regulation](#), supporting the swift adoption of the new ePrivacy Regulation and offering insights and clarifications on key issues including, preventing the processing of electronic communications on the basis of “legitimate interest” or the general purpose of performance of a contract, ensuring that the new regulation maintains at least the current level of protection under the ePrivacy Directive, providing protection for all electronic communications, encouraging the use of anonymized electronic communication data, and ensuring that consent is obtained for websites and mobile apps.

How Do These European Data Protection Board Developments Impact My Business?

Now that GDPR is effective, the EDPB is moving swiftly to provide implementation guidance and compliance recommendations. All businesses with an EU footprint should familiarize themselves with and monitor the EDPB website for GDPR [guidelines](#) and [public consultations](#). Given the anticipated end of 2018 entry into force of the ePrivacy Regulation, which will complement the GDPR, companies should likewise scrutinize the EDPB’s recent ePrivacy Regulation statement in relation to their electronic communications practices.