EDPS SUPERVISORY OPINION 18/2025 ON A DRAFT JOINT CONTROLLERSHIP ARRANGEMENT BETWEEN THE EUROPEAN CENTRAL BANK AND NATIONAL COMPETENT AUTHORITIES IN THE CONTEXT OF THE SINGLE SUPERVISORY MECHANISM

(Case 2024-1002)

Executive summary

The present opinion analyses a number of questions sent by the European Central Bank (ECB) to the European Data Protection Supervisor (EDPS) on a draft joint controllership arrangement to be concluded between the ECB and National Competent Authorities (NCAs) in the context of the Single Supervisory Mechanism (SSM). The EDPS acknowledges that two separate legal frameworks are applicable in the case at hand, namely Regulation (EU) 2018/1725 (EUDPR) insofar as the ECB is concerned and Regulation (EU) 2016/679 (GDPR) insofar as NCAs are concerned. The scope of this Supervisory Opinion is limited to questions related to the EUDPR.

The EDPS concludes that the ECB is required to notify to the EDPS personal data breaches for processing activities where it is a joint controller when the conditions set out in Article 34(1) of the EUDPR are fulfilled. Such an obligation is without prejudice to any notification obligations that NCAs may have under the GDPR. In the same vein, the ECB is required to prior consult the EDPS on Data Protection Impact Assessments (DPIAs) when the conditions of Article 40 of the EUDPR are met. Such obligation is without prejudice to prior consultations submitted from NCAs to national supervisory authorities. The above ECB obligations should be reflected in the text of the draft JCA.

Concerning DPIAs, the EDPS also concludes that it is in the discretionary power of joint controllers to decide whether one DPIA is carried out for a joint processing activity, as long as such DPIA is validated by all joint controllers. Finally, the ECB is advised to further specify the provisions included in the draft JCA on handling data subject requests in line with the EDPS recommendations.

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1. INTRODUCTION

1. This Supervisory Opinion relates to a consultation by the European Central Bank (ECB) on a draft joint controllership arrangement (JCA) between the ECB and national competent authorities (NCAs) in the context of the prudential supervision of credit institutions within the framework of the single supervisory mechanism (SSM).

2. The European Data Protection Supervisor (EDPS) issues this Supervisory Opinion in accordance with Article 58(3)(c) of Regulation (EU) 2018/1725[1] (the EUDPR).

2. BACKGROUND INFORMATION

3. On 20 November 2024, the ECB consulted the EDPS on a JCA to be concluded between the ECB and NCAs in the context of the SSM.

4. In the context of the SSM, the ECB and NCAs, when carrying out banking supervision activities, process personal data related to different categories and data subjects in accordance with Council Regulation (EU) 1024/2013[2] (the SSM Regulation).

5. The SSM is the system of banking supervision in Europe. It is one of the pillars of the banking union comprising the ECB and the national supervisory authorities of all euro area countries. Other EU countries that have decided to participate in supervision are also part of the SSM. There are 21 countries participating in banking supervision.

6. The ECB communicated to the EDPS its assessment where it concluded that the ECB and NCAs are joint controllers for several processing operations under the SSM Regulation, notably in areas such as fit and proper assessments of significant supervised entities. The draft JCA covers seven such processing operations. These processing operations do not take place within one centralised IT system.

7. The ECB asked the EDPS to review the approach taken in the draft JCA concerning certain compliance responsibilities. In short, the ECB is seeking the advice of the EDPS on the draft JCA package in line with Art. 41(1) of the EUDPR, and whether the allocation of roles and responsibilities between the joint controllers is sufficiently clear in the draft JCA. In that context, the ECB initially sought the EDPS' advice on certain definitions included in the draft JCA. The ECB also raised issues regarding: the procedure relating to handling of data subject requests; the procedure related to

[1] Regulation (EU) 2018/1725 of the European Parliament and the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC, OJ, L 295, 21.11.2018, pp. 39-98.

[2] Council Regulation (EU) No 1024/2013 of 15 October 2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institution, OJ, L 287, pp. 63 and fol.

personal data breaches; Data Protection Impact Assessments (DPIAs); prior consultations on DPIAs.

8. With regard to the legal nature of the draft JCA, it is a decision by the ECB. The JCA will be adopted by the ECB's Governing Council in accordance with the SSM Regulation, which confers specific tasks on the ECB concerning policies relating to the prudential supervision of credit institutions, and in particular Article 4(3) and Article 6(1) and (7) thereof.

9. After having carried out an analysis of the documentation provided by the ECB alongside the consultation, on 18 December 2024, the EDPS contacted the ECB and mentioned that certain definitions included in the draft JCA (i.e. the notion of "relevant joint controller", and "relevant NCA") lack clarity. In the absence of clarity on the above notions, it was not possible to understand to which party such notions refer to when cited in the draft JCA. In that respect, the EDPS asked the ECB to provide additional information on the above notions.

10. On 27 January 2025, the ECB provided additional clarifications with regard to the above notions and communicated to the EDPS an updated draft JCA. The ECB clarified that the revised draft has not been assessed and agreed upon with the NCAs. Therefore, the ECB asked the EDPS to consider the revised JCA as an "updated working draft" and added that the EDPS opinion will be taken into account for the further finalisation of the draft JCA. The EDPS takes note of the amendments introduced in the revised draft provided by the ECB, where the definitions included in the draft JCA have been refined. In that respect, the question raised by ECB on the definitions included in the draft JCA (see para 7 above) is no longer relevant, as the updated draft addresses the issues identified by the EDPS in the initial draft and includes definitions that are sufficiently clear.

11. In March 2025, at the request of the EDPS, an informal meeting took place between the ECB and the EDPS, where the ECB presented the details of the processing covered by the draft JCA.

12. The EDPS issues this Supervisory Opinion based on the updated draft JCA provided by the ECB on 27 January 2025.

13. This Supervisory Opinion is confined to matters that fall within the scope of the EDPS' mandate in accordance with Article 52(3) of the EUDPR, without prejudice to any opinions issued by national supervisory authorities on the same subject. Accordingly, any recommendations in the present opinion that refer to provisions in the draft JCA that concern all joint controllers should not be construed as recommendations that pertain to the obligations of NCAs, which remain under the supervision of national supervisory authorities.

3. LEGAL ANALYSIS AND RECOMMENDATIONS

3.1 Handling of data subject requests

14. Article 28(1) of the EUDPR provides that joint controllers shall determine their respective responsibilities for compliance with their data protection obligations, "in particular as regards the exercising of rights of data subjects (...)". Article 28(3) of the EUDPR further stipulates that "irrespective of the terms of the arrangement referred to in paragraph 1, the data subject may exercise his or her rights under this Regulation in respect of and against each of the controllers".

15. Article 4 of the draft JCA defines a procedure for handling data subject requests by:

    i) identifying the responsible joint controller for handling data subject requests with regard to each joint processing operation;

    ii) requiring each joint controller to appoint a contact point;

    iii) establishing rules for cooperation among joint controllers concerning handling of data subject requests;

    iv) establishing rules determining which joint controller is responsible for responding to data subject requests. In accordance with the latter rules, the draft JCA provides that if the joint controller that receive the data subject request is the responsible joint controller "but the data subject request also pertains to other supervisory tasks listed in paragraph 2, points (a) to (g), that joint controller shall request the assistance of another joint controller or joint controllers (...)". The draft JCA also provides that if the data subject request does not fall under the responsibility of the joint controller that received the request, the joint controller in question shall forward the data subject request to the joint controller actually responsible for that request.

16. The ECB is seeking the advice of the EDPS on the procedure set up in Article 4 of the draft JCA. It also asks the EDPS advice on whether this procedure is in line with the "data protection best practices" for a data subject to be directed to another joint controller if the joint controller initially contacted by the data subject is not the one who is responsible to reply.

3.1.1 Joint controller(s) responsible for responding to the data subject request

17. Considering the rules introduced by Article 4(4) of the draft JCA, the EDPS notes that there are three different scenarios where a joint controller receives a data subject request falling within the scope of the draft JCA. First, the joint controller that receives the request carries out an assessment and concludes that it is solely responsible for handling the request. Second, the joint controller that receives the request carries out an assessment and concludes that another joint controller or joint controllers is/are responsible for handling the request. Third, the joint controller that receives the request carries out an assessment and concludes that it is responsible for handling the request, but such request also pertains to other supervisory tasks referred to in Article 4(2) of the draft JCA for which another joint controller is responsible.

18. Concerning the **first** scenario, it is straightforward that the joint controller that receives the data subject request is responsible for handling it and responding to the data subject.

19. Concerning the **second** scenario, the draft JCA should set a procedure for joint controllers to internally coordinate among themselves in case the joint controller initially contacted by the data subject (receiving joint controller) is not responsible for handling the data subject request. In that regard, the EDPS welcomes the fact that the draft JCA provides that "the joint controller that receives the data subject request shall forward the data subject request to the joint controller actually responsible for that request".

20. As a matter of good practice and to ensure transparency vis-a-vis data subjects, the EDPS notes that the draft JCA should also provide that the joint controller contacted by the data subject should not only be in charge of forwarding the request to the relevant joint controller, but also in charge of informing the data subject that such request is transmitted to the relevant joint controller, by specifying which this entity is. Additionally, the draft JCA should stipulate that the joint controller to whom the request has been forwarded must assess whether it accepts responsibility for handling the request by examining whether such request falls within its areas of responsibility in accordance with Article 4(2) of the draft JCA. Should the joint controller not accept to be the responsible party to handle the request, the draft JCA should also include a procedure to define how the responsible joint controller would be identified. For instance, the draft JCA could specify that the joint controller to which the request has been forwarded and which disagrees with the assessment that it is the responsible one, should schedule a meeting with the receiving joint controller, as well as with any other joint controller it deems concerned without undue delay aiming at identifying the responsible joint controller.

21. Such procedure for internally identifying the responsible joint controller would be in line with the data subject-centred approach of Article 28 of the EUDPR, which expressly refers to the rules on exercising data subject rights.

Recommendation 1: The EDPS **recommends** that the ECB, jointly with the NCAs, amend the draft JCA to add that should a joint controller receive a data subject request that does not fall under its responsibility, it should not only transmit such request to the responsible joint controller, but also inform the data subject about such transmission.

Recommendation 2: The EDPS **recommends** that the ECB, jointly with the NCAs, amend the draft JCA to add a provision that define the steps that should be taken in case the joint controller to which the request has been forwarded by the receiving joint controller disagrees with the assessment of the receiving joint controller that it should be the responsible joint controller for handling the request.

22. Concerning the **third** scenario, the draft JCA provides that should the receiving joint controller conclude that it is responsible to handle the request but at the same time, assess that the request also pertains to other supervisory tasks referred to in paragraph 2 points (a) to (g) of Article 4 of the draft JCA, it should request the assistance of another joint controller or joint controllers. The EDPS **welcomes** the inclusion of this provision - that was not included in the initial draft communicated to the EDPS - in the draft JCA.

3.1.2 Appointment of contact points

23. The EDPS welcomes the fact that the draft JCA clearly indicates in Article 4(2) which joint controller is responsible for handling data subject requests depending on the processing operation concerned by the request. With regard to the contact points, the EDPS notes that the draft JCA indicates that each joint controller is required to "*publish its contact point and the contact point of each of the other contact points of each of the other joint controllers in its data protection notice*".

24. While it is not a requirement under the EUDPR to appoint a single contact point for data subjects, the EDPS notes that as a matter of good practice, joint controllers may decide to designate one single contact point for data subjects to exercise their data subject requests.[3] In the case at hand, in light of the number of joint controllers, the existence of a single contact point would facilitate the exercise of data subject rights. Such single contact point would coordinate the handling of data subject requests by liaising with the relevant joint controllers.

25. Therefore, the EDPS recommends that the ECB discuss with the NCAs the possibility of designating a single contact point for handling data subject requests. Nonetheless, the EDPS acknowledges that considering the number of joint controllers involved in the JCA and the complexity of the SSM, it may prove difficult for joint controllers to reach an agreement on the designation of a single contact point. Should the ECB and NCAs not reach an agreement on the above, the EDPS considers that the designation of a contact point for each joint controller, as it is currently stipulated in Article 4 of the draft JCA, is sufficient.

Recommendation 3: The EDPS **recommends** that the ECB, jointly with the NCAs, consider the possibility of designating a single contact point for handling data subject requests.

[3] Article 28(1) of the EUDPR provides that "the arrangement may designate a contact point for data subjects". See also the EDPS Guidelines on the concepts of controller, processor and joint controllership under Regulation (EU) 2018/1725where it is mentioned that "The fundamental right approach of the Regulation is also visible in the specific possibility for the joint controllers to establish a single contact point to facilitate the exercise of data subject rights" , p. 26.

3.2 Handling of personal data breaches

26. Article 34(1) EUDPR imposes an obligation on the controller to notify personal data breaches (data breaches) to the EDPS when the conditions specified in the above provision are met. Article 35 EUDPR also imposes an obligation on the controller to communicate the data breach to the data subject, under certain conditions.

27. Article 5 of the draft JCA determines that the joint controller that caused a data breach as a result of an infringement of its obligations under the EUDPR or Regulation (EU) 2016/679[4] (GDPR) is responsible for managing a data breach. In accordance with the above provision in the draft JCA, the responsible joint controller should also assess whether the data breach has to be notified to the respective competent supervisory authority (national supervisory authority or the EDPS), in accordance with Art. 34(1) of the EUDPR or Art. 33(1) of the GDPR, as well as communicated to data subjects, in accordance with Art. 35(1) of the EUDPR or Art.34(1) of the GDPR.

28. The ECB is consulting with the EDPS on **whether the draft JCA can provide that a data breach can be notified by one of the joint controllers to their respective SA, and whether such a notification would mean that the other joint controllers are not required to notify the same breach to their respective supervisory authorities.**

29. The ECB distinguishes between two scenarios: a) where the joint controller responsible for the data breach can be clearly identified, and b) where it is not immediately possible to determine which controller is responsible.

30. The EDPS notes that in the case at stake, **two separate legal frameworks** are applicable: the EUDPR insofar as the ECB is concerned and the GDPR insofar as the NCAs are concerned. The EDPS is responsible for monitoring and ensuring the application of the EUDPR by Union institutions or bodies (EUI) in accordance with Art. 52(3) EUDPR. Therefore, **the EDPS' mandate** to address the questions raised by the ECB **is limited to the examination of the respective EUDPR provisions which apply to the processing of personal data by the ECB, being a Union institution.**[5] It does not extend to the interpretation of the GDPR provisions applicable to NCAs.

31. Article 34(1) EUDPR explicitly provides that the EDPS should be notified in case of a data breach, unless the data breach is unlikely to result in a risk to the rights and freedoms of natural persons. Neither Art. 34(1) EUDPR on notification of personal data breaches, nor Article 28(1) EUDPR on joint controllership provide that an EUI would be exempt from its obligation to notify a data breach to the EDPS, should another joint controller fulfil such an obligation under the GDPR.

32. Therefore, in the case at hand, it is irrelevant whether the ECB is responsible for a data breach to determine whether it should notify the EDPS. **The fact that the ECB is a joint controller for a given processing activity in the context of which the**

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[4] Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation).

[5] Article 2 (1) of the EUDPR in conjunction with Art. 13(1) of the Treaty of the European Union.

data breach occurred is sufficient to trigger its notification obligation to the EDPS when the conditions of Article 34(1) EUDPR are met.

33. As outlined above (para 30), the examination of the relevant provision of the GDPR concerning the notification obligations of NCAs, namely Article 33(1), falls outside the EDPS' remit. Nevertheless, the conclusion of a JCA by the ECB and NCAs still requires an analysis of the respective articles of the GDPR on joint controllership (Article 26 GDPR) and notification of data breaches (Article 33(1) GDPR), which fall within the remit of national supervisory authorities under the umbrella of the European Data Protection Board (EDPB)[6]. Since there is currently **no formal mechanism for cooperation** between the EDPS and national Supervisory Authorities to assess scenarios of joint controllership between entities (EUIs and national entities) that are subject to different legal regimes (EUDPR and GDPR respectively), **the EDPS will forward the ECB consultation to the EDPB for discussion concerning the interpretation of the relevant GDPR provisions**.

34. In that regard, it is indeed for the EDPB to determine whether the GDPR would allow one single notification of a data breach from a designated NCA, and whether such notification would exempt the rest of the NCAs from notifying their respective national supervisory authorities.

Recommendation 4: The EDPS **deems necessary** that the ECB notify to the EDPS all data breaches concerning joint processing operations falling within the scope of the draft JCA when the conditions stipulated in Art. 34(1) EUDPR are met. The ECB is not dispensed from the above notification obligation when it has not caused a data breach, without prejudice to any additional notification obligations incumbent on NCAs**.** As a result, the EDPS **deems necessary** that Article 5 of the draft JCA be amended to reflect the above obligation of the ECB**.**

Recommendation 5: The EDPS **deems necessary** that Article 5 of the draft JCA be amended to provide that the joint controller that becomes aware of a data breach should always notify the ECB without undue delay for the ECB to be able to fulfil its notification obligation under Art. 34(1) EUDPR within the 72-hour deadline.

35. Finally, the ECB raises a practical question on handling data breaches by asking the EDPS whether a general procedure for handling data breaches could be designed and implemented separately from the draft JCA, considering that such procedure could be adapted more easily than the draft JCA.

36. The EDPS notes that the draft JCA should, as a minimum, clarify the respective responsibilities of joint controllers in accordance with Article 28(1) of the EUDPR. Such responsibilities should cover which party handles data breaches depending on

[6] Article 70(1) of the GDPR: "The Board shall ensure the consistent application of this Regulation".

the circumstances. It is in the discretionary power of joint controllers to design separately a more detailed, operational data breach handling procedure.

3.3 Data protection impact assessments (DPIAs)

37. Article 39(1) of the EUDPR stipulates the conditions under which a controller should carry out a DPIA.

38. Article 7 of the draft JCA covers different scenarios concerning how DPIAs should be carried out for joint processing operations in the context of the SSM. The ECB asked the EDPS whether each joint controller should be responsible for drafting their own DPIA according to their own methodology or whether it would be sufficient that one joint controller carries out one DPIA, as there would be no added value in having various DPIAs for the same processing activity. At the same time, the ECB highlights the inherent difficulties for joint controllers to agree on a common methodology for carrying out a DPIA.

39. The EDPS notes that carrying out multiple DPIAs for the same processing operation is not a requirement under Article 39 of the EUDPR. Therefore, one DPIA for the same processing operation would be sufficient.

40. Concerning the requirement for joint controllers to agree on a common methodology and jointly carry out a DPIA, the EDPS notes that while this would be considered a good practice[7], it is not a legal requirement under the EUDPR. Considering that Articles 39 and 28 remain silent on how DPIAs may be conducted in case of joint controllership, the EDPS notes that it is in the discretionary power of the joint controllers to decide how DPIAs should be carried out, as long as the requirements under Article 39 of the EUDPR - insofar as the ECB is concerned - are met.

41. In that respect, joint controllers may decide that only one joint controller carries out a DPIA - especially when all joint controllers are involved during the same stages of the processing - **as long as such DPIA is validated by all joint controllers** It is to be noted that even if the JCA designates one joint controller to carry out a DPIA, each joint controller remains responsible for complying with their applicable legal framework. Therefore, the validation of a DPIA by the ECB is necessary to ensure that the relevant and specific data protection risks linked to the processing by the ECB are duly identified and mitigated, and that its obligations stemming from the EUDPR are complied with. In other words, the validation of a DPIA is necessary for the ECB to be able to meet its obligations stemming from Article 39 EUDPR.

42. Nonetheless, it should also be noted that if the joint controllers are not involved during the same stages of the processing operations in place, they may carry out a separate DPIA for the specific stage of processing during which they are involved.[8]

Recommendation 6: The EDPS **deems necessary** that Article 7 of the draft JCA explain how joint controllers carry out a DPIA, when required, for the joint processing

[7] See EDPS guidelines on the concepts of controller, processor and joint controllership under Regulation (EU) 2018/1725: "When carrying out a Data Protection Impact Assessment (hereinafter DPIA), in case of a joint controllership situation, the controllers should agree on a common methodology and jointly carry out a DPIA.", p.29, footnote 36.

[8] Idem.

operations falling under the scope of the JCA. The EDPS also **deems necessary** that the ECB always validate the DPIA, i.e. even if the DPIA is carried out by another joint controller, for the ECB to meet its obligations under Article 39 EUDPR.

3.4 Prior consultations on DPIAs

43. Article 40(1) EUDPR provides that the controller shall consult the EDPS prior to processing where a DPIA under Article 39 indicates that the processing would, in the absence of safeguards, security measures and mechanisms to mitigate the risk, result in a high risk to the rights and freedoms of natural persons and the controller is of the opinion that the risk cannot be mitigated by reasonable means in view of the available technologies and costs of implementation.

44. The ECB is asking the EDPS **whether the draft JCA can designate one joint controller in charge of prior consulting their respective supervisory authority on a DPIA developed for the same processing operation under Article 40(1) EUDPR** (and subsequently Article 36(1) GDPR) and whether such prior consultation would "exempt" the rest of the joint controllers from prior consulting their respective SAs on the same DPIA.

45. As analysed under Section 3.2, in the case at hand, **two separate legal frameworks** are applicable: the EUDPR insofar as the ECB is concerned and the GDPR insofar as the NCAs are concerned. The EDPS is responsible for monitoring and ensuring the application of the EUDPR by EUIs in accordance with Art. 52(3) EUDPR. Therefore, **the EDPS' mandate** to address the questions raised by the ECB **is limited to the analysis of the respective EUDPR provisions which apply to the processing of personal data by the ECB, being a Union institution.**[9] It does not extend to the examination of the GDPR provisions applicable to NCAs.

46. The wording of Article 40(1) EUDPR does not specifically address how prior consultations on DPIAs should take place in case of joint controllership. **Nonetheless, the above provision explicitly provides that it is the EDPS that should be consulted by the controller when the conditions specified therein, are met.**

47. Therefore, the ECB should prior consult the EDPS on DPIAs concerning processing operations falling under the scope of the draft JCA in accordance with Article 40(1) EUDPR. The ECB is not dispensed from the above prior consultation obligation, without prejudice to any additional prior consultations from NCAs to national supervisory authorities.

48. In that regard, the draft JCA cannot provide that a prior consultation can be submitted by one of the joint controllers to their respective SA, exempting the ECB from its respective obligation.

49. The EDPS will, *mutatis mutandis,* forward **the part of the consultation that concerns prior consultations on DPIAs to the EDPB for discussion concerning the interpretation of the relevant GDPR provisions**.

[9] Article 2(1) of the EUDPR in conjunction with Art. 13(1) of the Treaty of the European Union.

50. In that regard, it is for the EDPB to determine whether the GDPR would allow one single prior consultation on a DPIA, and whether such prior consultation would exempt the rest of the NCAs from prior consulting their respective national supervisory authorities.

> Recommendation 7: The EDPS **deems necessary** that the ECB prior consult the EDPS on DPIAs falling under the scope of the draft JCA in accordance with Article 40(1) EUDPR. The ECB is not dispensed from the above obligation, without prejudice to any obligations for prior consultations from NCAs to national supervisory authorities.

3.5 Processors engaged in joint processing

51. Article 8(d) of the draft JCA provides that "each joint controller shall be responsible for (...) engaging only processors providing sufficient guarantees to implement appropriate technical and organisational measures, pursuant to Article 29 of Regulation (EU) 2018/1725 and Article 28 of Regulation (EU) 2016/679".

52. As a matter of good practice, the EDPS recommends that the draft JCA introduce an obligation for joint controllers to provide each other with a list of processors engaged in processing activities falling under the scope of the draft JCA.

53. Considering that processors may play a key operational role in joint processing activities each joint controller has an interest in being aware of the processors engaged.

> Recommendation 8: The EDPS **recommends** that the ECB consider - jointly with NCAs - to include a provision requiring joint controllers to provide each other with a list of the processors engaged in processing activities falling under the scope of the draft JCA.

CONCLUSION

As indicated above, in order to ensure compliance of the processing with the Regulation, the EDPS **deems necessary** that the ECB:

54. Notify to the EDPS all data breaches concerning joint processing operations falling within the scope of the draft JCA when the conditions stipulated in Art. 34(1) EUDPR are met. The ECB is not dispensed from the above notification obligation when it has not caused a data breach, without prejudice to any additional notification obligations incumbent on NCAs. Art. 5 of the draft JCA should be amended accordingly to reflect the above obligation of the ECB (Recommendation 4).

55. Amend Article 5 of the draft JCA to provide that the joint controller that becomes aware of a data breach should always notify the ECB without undue delay for the ECB to be able to fulfil its notification obligation under Art. 34(1) EUDPR within the 72-hour deadline (Recommendation 5).

56. Amend Article 7 of the draft JCA to explain how joint controllers should carry out a DPIA, when required, for the joint processing operations falling under the scope of the JCA. The EDPS also **deems necessary** that the ECB always validate the DPIA, i.e. even if the DPIA is carried out by another joint controller for the ECB to meet its obligations under Article 39 EUDPR (Recommendation 6).

57. Prior consult the EDPS on DPIAs falling within the scope of the draft JCA in accordance with Art. 40(1) EUDPR. The ECB is not dispensed from the above obligation, without prejudice to any obligations for prior consultations from NCAs to national supervisory authorities (Recommendation 7).

Moreover, the EDPS **recommends** that the ECB:

58. Amend the draft JCA to add that, should a joint controller receive a data subject request that does not fall under its responsibility, it should not only transmit such request to the responsible joint controller, but also inform the data subject about such transmission (Recommendation 1).

59. Amend the draft JCA to add a provision that define the steps that should be taken in case the joint controller to which the request has been forwarded by the receiving joint controller disagrees with the assessment of the latter that it should be the responsible joint controller for handling the request (Recommendation 2).

60. Consider the possibility of designating a single contact point for handling data subject requests (Recommendation 3).

61. Consider including in the draft JCA a provision requiring joint controllers to provide each other with a list of the processors engaged in joint processing activities (Recommendation 8).

In light of the accountability principle, the EDPS expects the ECB to implement the above recommendations accordingly and has decided to **close the case**.

As outlined under Sections 3.2 and 3.4 of the present opinion, the EDPS will forward the ECB consultation to the EDPB for discussion as far as its questions on notification of data breaches and prior consultations on DPIAs are concerned.

Done at Brussels, 10 November 2025

(e-signed)
Wojciech Rafał WIEWIÓROWSKI