



11TH EHEALTH NETWORK 9 MAY 2017, ST. JULIAN'S, MALTA
COVER NOTE BY EHEALTH NETWORK SECRETARIAT

Topic 3: Agreement for the exchange of health data (agenda point 9)

Issue at stake

JAsEHN Task 6.2 consists of submitting a “proposal for a sustainable legal basis for cross-border exchange of personal health data” for adoption by the eHealth Network. To that effect, a 4-steps-approach is proposed to the eHealth Network:

1. Adoption of the final draft version of the “*Agreement between National Authorities or National Organisations responsible for National Contact Points for eHealth on the Criteria required for the participation in Cross-Border eHealth Information Services*” including two supporting documents (RECOMMENDATION for the Governance and Implementation of the Agreement and RECOMMENDATION for a Request of the eHealth Network to the Article 29 Data Protection Working Party) by the eHealth Network at its 11th meeting on 9 May 2017.
2. Start of the process for signing the Agreement (according to the RECOMMENDATION for the Governance and Implementation of the Agreement) and parallel involvement of the Article 29 Data Protection Working Party as well as national Data Protection Authorities (according to the RECOMMENDATION for a Request of the eHealth Network to the Article 29 Data Protection Working Party).
3. Receive Opinion(s) of the Article 29 Data Protection Working Party as well as national Data Protection Authorities.
4. Amendment of the Agreement, if there is a need depending on the outcome of above step 3., within 12 months by the eHealth Network either at its 12th meeting in November 2017 or at its 13th meeting in May 2018 (according to Clause I.4 of the Agreement).

Details on all remaining open issues concerning the Agreement are described in the [Explanatory Note by the JAsEHN T6.2 Drafting team](#) as an Annex to this Cover note.

Summary of documents

Based on the proposed 4-steps-approach, the following documents are submitted to the eHealth Network for adoption:

- Final draft version of the Agreement between National Authorities or National Organisations responsible for National Contact Points for eHealth on the Criteria required for the participation in Cross Border eHealth Information Services
 - The Agreement includes the following Clause I.4:
“The eHN shall amend the Agreement according to Clause III.1.1.3 within 12 months from the adoption of the Agreement on 9 May 2017, depending on the need for such an amendment based on the evaluations and conclusions reached until then.”
- RECOMMENDATION for a Request of the eHealth Network to the Article 29 Data Protection Working Party
 - This document seeks to take account of some designated Contracting Parties’ request for an Opinion of the Art.29WP; the template contained in the

document may also be used accordingly for parallel requests to Data Protection Authorities at national level.

- RECOMMENDATION for the Governance and Implementation of the Agreement
 - This document applies once and as soon as the Agreement has been adopted by the eHealth Network. Since JAseHN Task 6.2 has ended with the submission of the above documents, the eHealth Network is recommended to set up a new legal group in order to ensure the upkeep of the legal work, including the consultation of the Art. 29 WP and following possible amendment of the Agreement according to its Clause I.4.

Format of procedure in the eHN

The Member State co-chair introduces the topic and gives the floor to the chairs of JAseHN Task 6.2 that produced the final draft version of the Agreement and supporting documents.

The eHealth Network Members are asked to agree on the proposed 4-steps-approach by adopting the Agreement and the two supporting Recommendations.