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## 'I' ITEM NOTE

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From: General Secretariat of the Council  
To: Permanent Representatives Committee (Part 2)  
Subject: Proposal for a Regulation of the European Parliament and of the Council laying down additional procedural rules relating to the enforcement of Regulation (EU) 2016/679  
- Confirmation of the final compromise text with a view to agreement

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### I. BACKGROUND/INTRODUCTION

1. On 4 July 2023, the Commission submitted to the Council and the European Parliament a proposal for a Regulation of the European Parliament and of the Council laying down additional procedural rules relating to the enforcement of Regulation (EU) 2016/679<sup>1</sup>, which aims at specifying procedural rules for certain stages of the investigation process in cross border data protection cases and at supporting the smooth functioning of the cooperation mechanisms between supervisory authorities for the enforcement of the General Data Protection Regulation (GDPR).

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<sup>1</sup> 11657/23.

2. The draft Regulation is based on Article 16 of the Treaty on the Functioning of the European Union (TFEU) (ordinary legislative procedure).
3. The European Data Protection Supervisor and the European Data Protection Board delivered a joint opinion<sup>2</sup> on 19 September 2023.
4. On 13 June 2024, the Council reached a general approach<sup>3</sup> on the abovementioned proposal, which constituted the mandate for negotiations with the European Parliament in the context of the ordinary legislative procedure.
5. On 16 June 2025, a provisional agreement was reached between co-legislators, which resulted in the final compromise text<sup>4</sup> as set out in the annex to this note.

## II. CONCLUSION

6. The Permanent Representatives Committee is therefore invited to:
  - a) confirm agreement on the final compromise text as set out in the annex to this note with a view to reaching an agreement at first reading with the European Parliament,
  - b) authorise the Chair of the Permanent Representatives Committee to send a letter to inform the Chair of the European Parliament's LIBE Committee that, should the European Parliament adopt its position at first reading on the proposal in the exact form as set out in the annex to this note, subject, if necessary, to revision of that text by the legal linguists of both institutions, the Council will approve the European Parliament's position and the act will be adopted in the wording which corresponds to the European Parliament's position.

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<sup>2</sup> 13279/23.

<sup>3</sup> 11214/24.

<sup>4</sup> A few technical adjustments have been introduced at technical level subsequent to the trilogue.

2023/0202 (COD)

Proposal for a

**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

laying down additional procedural rules relating to the enforcement of Regulation (EU) 2016/679

*(Text with EEA relevance)*

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 16 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee<sup>1</sup>,

Having regard to the opinion of the Committee of the Regions<sup>23</sup>,

Acting in accordance with the ordinary legislative procedure,

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<sup>1</sup> OJ C , , p. .

<sup>2</sup> ~~OJ C , , p. .~~

<sup>3</sup> **OJ C , , p. .**

Whereas:

- (1) Regulation (EU) 2016/679 of the European Parliament and of the Council<sup>4</sup> establishes a decentralised enforcement system which aims to ensure the consistent interpretation and application of Regulation (EU) 2016/679 in cross-border cases. In cases concerning cross-border processing of personal data, this system requires cooperation between supervisory authorities in an endeavour to reach consensus and, where supervisory authorities cannot reach consensus, provides for dispute resolution by the European Data Protection Board (the Board).
- (2) In order to provide for the smooth and effective functioning of the cooperation and dispute resolution mechanism provided for in Articles 60 and 65 of Regulation (EU) 2016/679, it is necessary to lay down rules concerning the conduct of proceedings by the supervisory authorities in cross-border cases, and by the Board during dispute resolution, including the handling of cross-border complaints. It is also necessary for this reason to lay down rules concerning the exercise of the right to be heard ~~by the parties under investigation~~ prior to the adoption of decisions by supervisory authorities and, as the case may be, by the Board.
- (2a) ***In the absence of EU rules governing the matter, it is for each Member State, in accordance with the principle of the procedural autonomy of the Member States, to lay down the detailed rules of administrative and judicial procedures intended to ensure a high level of protection of rights which individuals derive from EU law. The procedural law of each Member State should therefore apply to the supervisory authorities insofar as this Regulation does not harmonise a matter, and as long as such national procedural rules do not impede the principles of effectiveness and equivalence of EU law.***

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<sup>4</sup> 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) (OJ L 119, 4.5.2016, p. 1).

- (3) Complaints are an essential source of information for detecting infringements of data protection rules. ***Information provided by complainant as part of the complaint lodged or when making their views known can include arguments and evidences which can help progress the investigation.*** Defining clear and efficient procedures for the handling of complaints in cross-border cases is necessary since the complaint may be dealt with by a supervisory authority other than the one to which the complaint was lodged.
- (3a) ***This Regulation aims at ensuring that investigations in cases of cross-border processing are dealt in accordance with the principle of good administration, in particular that they are dealt impartially, fairly and within a reasonable time. To this end, this Regulation lays down some horizontal principles relating to the procedures in the enforcement of Regulation (EU) 2016/679 for cross-border processing.***
- (3b) ***A complaint should be understood as a claim lodged by a data subject with a supervisory authority in accordance with Article 77(1) or Article 80 of the Regulation (EU) 2016/679. The mere reporting of alleged infringements which does not concern the processing of personal data relating to the data subject, requests for advice from controllers or processors or general requests regarding the application of Regulation (EU) 2016/679, either from controllers, processors or natural persons, should not be regarded as a complaint.***

- (4) In order to be admissible a complaint should contain certain specified information. Therefore, in order to assist complainants in submitting the necessary facts to the supervisory authorities, a complaint form should be provided. The information specified in the form should be required only in cases of cross-border processing in the sense of Regulation (EU) 2016/679, though the form may be used by supervisory authorities for cases that do not concern cross-border processing. The form may be submitted electronically or by post. The submission of the information listed in that form should be a condition for a complaint relating to cross-border processing to be treated as a complaint as referred to in Article 77 of Regulation (EU) 2016/679. No additional information should be required for a complaint to be deemed admissible. It should be possible for supervisory authorities to facilitate the submission of complaints in a user-friendly electronic format and bearing in mind the needs of persons with disabilities, as long as the information required from the complainant corresponds to the information required by the form and no additional information is required in order to find the complaint admissible. ***In order for a complaint relating to cross-border processing to be admissible, it should contain specified information. No additional information should be required for such a complaint to be admissible. Administrative modalities and requirements of admissibility of complaints under national law of the supervisory authority with which a complaint has been lodged, such as language, statute of limitations, means of identification, electronic form, specific template or signature, continue to apply.***
- (4a) ***The complainant should not be required to contact the party under investigation before lodging a complaint in order for that complaint to be admissible. Where the complaint relates to the exercise of a right of the data subject which relies on a request to be submitted to the data controller by the data subject concerned, such request is expected to be made to the controller before the submission of such complaint.***

- (4ab)** *The supervisory authority with which the complaint was lodged shall determine, by way of a preliminary conclusion, whether the complaint relates to cross-border processing, which supervisory authority is assumed to act as a lead supervisory authority in accordance with Article 56, paragraph 1 of Regulation (EU) 2016/679, and if Article 56, paragraph 2 of Regulation (EU) 2016/679 applies. Where a procedure for the early resolution has not been initiated, the supervisory authority with which the complaint has been lodged should transmit the admissible complaint to the assumed lead supervisory authority and inform the complainant thereof. The assessment of the admissibility of the complaint by the supervisory authority with which the complaint has been lodged should be binding on the lead supervisory authority.*
- (4b)** *As part of the specified information required, the contact details of the person or entity lodging the complaint could include postal address, place of residence and, where available, email address.*
- (4c)** *Where the entity filling the complaint is a body, organisation or association referred to in Article 80 of Regulation 2016/679, a proof that the body, organisation or association has been properly constituted in accordance with the national law of the Member State of the authority with which the complaint is lodged should be provided, together with a proof that such body, organisation or association is acting on the basis of the mandate of the data subject. The modalities and procedures for the establishment of such proofs are determined in accordance with the national law of the Member State of the authority with which the complaint was lodged.*
- (4d)** *Where the complainant is a natural person not in a position to exercise his or her right to lodge a complaint without the assistance of a legal representative, for example because he or she is a child or because he or she has a disability or vulnerability, the result of which is that his or her rights are exercised through another person, such as a parent, legal guardian or family member, and where such representation is allowed under national law, that circumstance must be clearly identified at the point in time at which the complaint is lodged.*

- (4e)** *Supervisory authorities should facilitate the submission of all required information by the complainant. This could include providing templates or electronic forms, including in line with relevant European Data Protection Board's guidelines. Supervisory authorities could ask for further information from the complainant in order to facilitate the handling of the complaint. Where some of the information necessary for the complaint to be deemed admissible is missing, the supervisory authority with which the complaint is lodged could contact the complainant in order to obtain the missing information where feasible. Where the complaint is inadmissible, the supervisory authority should decide on its inadmissibility within the deadline provided by this Regulation while informing the complainant of the missing information, so as to allow him to resubmit an admissible complaint.*
- (4f)** *Where, following receipt of a complaint relating to cross-border processing from a supervisory authority, the lead supervisory authority requires additional information from the complainant in order to allow for the full investigation of the complaint, the supervisory authority with which the complaint was lodged should assist the lead supervisory authority, including by contacting the complainant to seek the required information if needed.*
- (4g)** *Supervisory authorities can facilitate the submission of complaints in a user-friendly electronic format and bearing in mind the needs of persons with disabilities, as long as the information required from the complainant corresponds to the specified information required and no additional information should be required in order to find the complaint admissible.*
- (4h)** *Where the lead supervisory authority initiates an investigation on the basis of a complaint, the parties under investigation should be informed without delay about the lodging of the complaint and the main elements thereof. Such provision of information by the lead supervisory authority could however be postponed for as long as it is necessary to protect the integrity of the investigation and allow for the effective conduct of investigative measures.*

- (5) Supervisory authorities are ~~obliged to~~ **should** decide on complaints within a reasonable timeframe. ***For this reason, this regulation lays down time limits.*** What is a reasonable timeframe depends on the circumstances of each case and, in particular, its context, the various procedural steps followed by the lead supervisory authority, the conduct of the parties in the course of the procedure and the complexity of the case. ***In order to effectively protect the fundamental rights and freedoms of data subjects in relation to the processing of personal data, it is important that complaints are handled in an efficient and expedient way. Depending on the circumstances of a case, the time required to handle it could be shorter than the time limit provided for in this Regulation. Efficient cooperation between the concerned authorities and the lead supervisory authority can also have a positive impact for the expedient handling of cases.***
- (5a) ***A complainant should have the possibility to exclusively communicate with the supervisory authority with which the complaint has been lodged. This should not prevent the complainant from communicating directly with another supervisory authority, including the lead supervisory authority.***
- (5b) ***Supervisory authorities should conduct procedures in an expedient and efficient way and should cooperate with each other in a sincere and effective manner, including by providing support where necessary and responding to requests without delay.***

- (6) Each complaint handled by a supervisory authority pursuant to Article 57(1), point (f), of Regulation (EU) 2016/679 is to be investigated with all due diligence to the extent appropriate bearing in mind that every use of powers by the supervisory authority must be appropriate, necessary and proportionate in view of ensuring compliance with Regulation (EU) 2016/679. It falls within the discretion of each competent authority to decide the extent to which *It is important to consider the personal data processed and the situation of the data subject, for example where* a complaint should be investigated. While assessing the extent appropriate of an investigation, supervisory authorities should aim to deliver a satisfactory resolution *relates* to the complainant, which may not necessarily require exhaustively investigating all possible legal and factual elements arising from the complaint, but which provides an effective and quick remedy to the complainant. The assessment of the extent of the investigative measures required could be informed by the gravity of the alleged infringement, its systemic or repetitive nature, or the fact, as the case may be, that the complainant also took advantage of her or his rights under Article 79 of Regulation (EU) 2016/679 *processing of personal data of children*.
- (7) The lead supervisory authority should provide the supervisory authority with which the complaint was lodged with the necessary information on the progress of the investigation for the purpose of providing updates to the complainant.
- (8) The competent supervisory authority should provide the complainant with access to the documents on the basis of which the supervisory authority reached a preliminary conclusion to reject fully or partially the complaint.

- (9) ~~In order for supervisory authorities to bring a swift end to infringements of Regulation (EU) 2016/679 and to deliver a quick resolution for complainants, supervisory authorities should endeavour, where appropriate, to resolve complaints by amicable settlement. The fact that an individual complaint has been resolved through an amicable settlement does not prevent the competent supervisory authority from pursuing an ex officio case, for example in the case of systemic or repetitive infringements of Regulation (EU) 2016/679.~~ ***In order for supervisory authorities to bring a swift end to infringements of Regulation (EU) 2016/679 and to deliver a quick resolution for complainants, supervisory authorities should endeavour, where appropriate, to resolve complaints by the procedure for early resolution in accordance with this regulation. Such procedure should establish whether the infringement alleged in the complaint has been brought to an end in a manner rendering the complaint devoid of purpose. Member States are not required to introduce new procedures under national law to allow their supervisory authorities to resolve a complaint through early resolution.***
- (9a) ***A procedure for the early resolution of a complaint should only be concluded where the complainant has not submitted a timely objection to the finding that the alleged infringement has been brought to an end. The early resolution of a complaint should therefore apply to cases where the complainant is duly able to assess the proposed outcome.***
- (9b) ***The early resolution of a complaint may be particularly useful in expeditiously resolving disputes concerning infringements of data subject rights pursuant to Chapter III of Regulation (EU) 2016/679 to the satisfaction of the complainant. Such outcome should allow the supervisory authority with which the complaint has been lodged or the lead supervisory authority to establish, on the basis of preliminary engagement with the data controller and provided that supporting evidence has been obtained, that the complaint is devoid of purpose.***

- (9c) *The circumstance that an individual complaint has been resolved through a procedure allowing for its early resolution should be without prejudice to the exercise by the lead supervisory authority of its powers in accordance with Regulation (EU) 2016/679 on the same subject matter, for example in the case of systemic or repetitive infringements of Regulation (EU) 2016/679.***
- (9d) *Where the lead supervisory authority to which the complaint has been transmitted considers that a complaint can be resolved through early resolution, a draft decision pursuant to Article 60(3) of Regulation (EU) 2016/679 should be submitted to the other supervisory authorities concerned, with a view to adopting a final decision in accordance with Article 60(7) of Regulation (EU) 2016/679 establishing that the alleged infringement has been brought to an end and that the complaint, or part of the complaint, has been resolved by the lead supervisory authority. The draft decision submitted could therefore be simplified and limited to an information that the complaint was settled, in whole or in part, through a procedure allowing for its early resolution, indicating the reasons underlying the decision and the scope of the resolution, and confirming that the complaint is therefore devoid of purpose. In such cases, the lead supervisory authority should directly submit its draft decision, without having to prepare and circulate a summary of key issues or preliminary findings.***
- (10) In order to guarantee the effective functioning of the cooperation and consistency mechanisms in Chapter VII of Regulation (EU) 2016/679, it is important that cross-border cases are resolved in a timely fashion and in line with the spirit of sincere and effective cooperation that underlies Article 60 of Regulation (EU) 2016/679. The lead supervisory authority should exercise its competence within a framework of close cooperation with the other supervisory authorities concerned. Likewise, supervisory authorities concerned should actively engage in the investigation at an early stage in an endeavour to reach a consensus, making full use of the tools provided by Regulation (EU) 2016/679.**

- (10a)** *Where the lead supervisory authority has formed a preliminary view on the main issues in an investigation, it should be possible for the lead supervisory authority to cooperate with supervisory authorities through a simple cooperation procedure. In such a case, the lead supervisory authority should inform supervisory authorities concerned of such consideration and provide all relevant information concerning the characteristics of the case and the complaint, including the main relevant facts and the alleged infringement to be investigated. Unless any of the supervisory authorities concerned object, the lead supervisory authority should continue cooperating with concerned supervisory authorities and submit a draft decision within the time limits foreseen in this Regulation.*
- (10b)** *The simple cooperation procedure should only be applied on a case-by-case basis, following a consideration by the lead supervisory authorities that, no reasonable doubt exists as to the scope of the investigation and the legal and factual issues identified do not require additional cooperation of the purpose of a complex investigation, in particular on the basis of the characteristics of the case and previous decisions in similar cases. In addition, existing case-law and guidelines adopted by the Board on the alleged infringement of Regulation (EU) 2016/679 to be investigated should also be taken into account by the lead supervisory authority in considering that consensus on the main elements of a case is likely to be established. In principle, the simple cooperation procedure should not apply where the case raises structural or recurring problems in several Member States, where the case concerns a general legal issue with regards to the interpretation, application or enforcement of Regulation (EU) 2016/679, where the case is related to the intersection of data protection with other legal fields, where the case affects a large number of data subjects in several Member States, where the case is related to a large number of complaints in several Member States; or where there may be a high risk to the rights and freedoms of data subject.*

- (10c)** *In cases where a supervisory authority is required to take certain procedural steps within specified time limits, it is the purpose of such time limits to ensure that the procedure progresses and concludes within a reasonable time. However, the purpose of such time limits is not to preclude supervisory authorities from taking the required procedural steps after their expiry. It is therefore necessary to ensure that where such procedural steps are taken after the expiry of the corresponding time limits, that fact cannot be considered grounds for illegality or invalidity either of the procedural step in question or of the final decision.*
- (10d)** *A mechanism should be introduced to allow the lead supervisory authority to extend the time limit for submitting a draft decision. Such extensions should be applied only in exceptional cases where it is required by the complexity of a case. Supervisory authorities concerned should be informed and have the opportunity to submit objections to the extension, which should be considered by the lead supervisory authority when determining whether to apply an extension to the time limit and, where applicable, the length of such an extension.*
- (10e)** *In cases where the lead supervisory authority extends the time limit for submitting a draft decision, supervisory authorities concerned should have the opportunity to inform the lead supervisory authority of their assessment that there is a need to act in order to protect the rights and freedoms of data subjects. In cases where the lead supervisory authority has been informed of such assessment in a timely manner, and does not submit a draft decision within the extended time limit, the urgent need to act as referred to in Article 66(1) of Regulation 2016/679 should be presumed. Notwithstanding this possibility, the urgency procedure remains available to supervisory authorities subject to the conditions set out in Article 66 of Regulation (EU) 2016/679.*

- (10f) In order to ensure that proceedings are conducted in an efficient manner, unless the procedural step in itself irreversibly affects the rights of the party under investigation or the complainant irrespective of the final decision, without prejudice to the procedural autonomy of Member States, it is preferable that remedies against procedural steps taken by supervisory authorities only be available in conjunction with a remedy against a final decision.*
- (11) It is particularly important for supervisory authorities to reach consensus on key aspects of the investigation *case* as early as possible and prior to the communication of allegations to the parties under investigation and adoption of the draft decision referred to in Article 60 of Regulation (EU) 2016/679, thereby reducing the number of cases submitted to the dispute resolution mechanism in Article 65 of Regulation (EU) 2016/679 and ultimately ensuring the quick resolution of cross-border cases.
- (12) Cooperation between supervisory authorities should be based on open dialogue which allows concerned supervisory authorities to meaningfully impact the course of the investigation by sharing their experiences and views with the lead supervisory authority, with due regard for the margin of discretion enjoyed by each supervisory authority, including in the assessment of the extent appropriate to investigate a case, and for the varying traditions of the Member States. For this purpose, the lead supervisory authority should provide concerned supervisory authorities with a summary of key issues setting out its preliminary view on the main issues in an investigation. It should be provided at a sufficiently early stage to allow effective inclusion of supervisory authorities concerned but at the same time at a stage where the lead supervisory authority's views on the case are sufficiently mature. Concerned supervisory authorities should have the opportunity to provide their comments on a broad range of questions, such as the scope of the investigation and the identification of complex factual and legal assessments. Given that the scope of the investigation determines the matters which require investigation by the lead supervisory authority, supervisory authorities should endeavour to achieve consensus as early as possible on the scope of the investigation.

- (12a)** *In this context, the exchange of relevant information between the lead supervisory authority and supervisory authorities concerned is an important element to support the spirit of effective and sincere cooperation. Such exchange of relevant information, and the timely provision of specific elements of information by the lead supervisory authority, should be understood as a continuous process throughout the course of an investigation and may vary in terms of documents and details required, depending on the complexity of the case being investigated. In particular, depending on the stage of the investigation and the circumstances of a case, such relevant information could progressively include, among others, the exchange of correspondence with the data controller or the data subject on the subject of a complaint or investigation, the preparatory documents for an audit or inspection, or preliminary technical or legal assessment being considered by the lead supervisory authority as a result of a specific step in its investigation.*
- (12b)** *While the lead supervisory authority should provide any relevant information to the supervisory authorities concerned without delay after the information becomes available, concerned supervisory authorities should also proactively make available any relevant information deemed useful to assess the legal and factual elements of a case. The exchange of relevant information should support the swift and effective cooperation between supervisory authorities and may, in certain cases, be supported by summary, extracts or copies of documents in order to facilitate a swift understanding of a case, while allowing for complementary information to be provided where further elements become necessary. In order to facilitate an effective and appropriate exchange of information between supervisory authorities, the Board could specify the modalities and requirements for the exchange of such information.*

- (12c) As part of the relevant information on a specific case, the lead supervisory authority should provide concerned supervisory authorities with a summary of key issues setting out its preliminary view on the main issues in an investigation. It should be provided at a sufficiently early stage to allow effective inclusion of the views submitted by supervisory authorities concerned but at the same time at a stage where the lead supervisory authority has sufficient elements to form its views on the case, where necessary by means of preliminary analysis and possible initial investigative measures. The summary of key issues should also include, where applicable, the preliminary identification of potential corrective measures in cases where the lead supervisory authority has sufficient elements to form a preliminary view on the matter, in particular when the provisions of Regulation (EU) 2016/679 concerned by the alleged infringement can be easily identified at an early stage.*
- (12d) Concerned supervisory authorities should have the opportunity to provide their comments on the summary of key issues, including on a broad range of questions, such as the scope of the investigation, the identification of the alleged infringements and the identification of factual and legal issues which are relevant for the investigation. Given that the scope of the investigation determines the matters which require investigation by the lead supervisory authority, supervisory authorities should endeavour to achieve consensus as early as possible on the scope of the investigation.*

- (13) In the interest of effective inclusive cooperation between all supervisory authorities concerned and the lead supervisory authority, *the summary of key issues and the* comments of concerned supervisory authorities should be concise and worded in sufficiently clear and precise terms to be easily understandable to all supervisory authorities. The legal arguments should be grouped by reference to the part of the summary of key issues to which they relate. The *summary of key issues and the* comments of supervisory authorities concerned may be supplemented by additional documents. However, a mere reference in the comments of a supervisory authority concerned to supplementary documents ~~cannot~~ **should not** make up for the absence of the essential arguments in law or in fact which should feature in the comments. The basic legal and factual particulars relied on in such documents should be indicated, at least in summary form, coherently and intelligibly in the comment itself.
- (14) ~~Cases that do not raise contentious issues do not require extensive discussion between supervisory authorities in order to reach a consensus and could, therefore, be dealt with more quickly. When none of the supervisory authorities concerned raise comments on the summary of key issues, the lead supervisory authority should communicate the preliminary findings provided for in Article 14 within nine months.~~
- (15) Supervisory authorities should ~~avail of~~ **use** all means necessary to achieve a consensus in a spirit of sincere and effective cooperation. Therefore, if there is a divergence in opinion between the supervisory authorities concerned and the lead supervisory authority regarding the scope of a complaint-based investigation, including the provisions of Regulation (EU) 2016/679 the infringement of which will be investigated, or where the comments of the supervisory authorities concerned relate to an important change in the complex legal or ~~technological~~ **factual** assessment, **or to the preliminary identification of potential corrective measures**, the concerned authority ~~should~~ **could** use the tools provided for under Articles 61 and 62 of Regulation (EU) 2016/679.

- (16) If the use of those tools does not enable the supervisory authorities to reach a consensus on the scope of a complaint-based investigation, the lead supervisory authority should request an urgent binding decision of the Board under Article 66(3) of Regulation (EU) 2016/679. For this purpose, the requirement of urgency should be presumed. The lead supervisory authority should draw appropriate conclusions from the urgent binding decision of the Board for the purposes of preliminary findings. The urgent binding decision of the Board cannot pre-empt the outcome of the investigation of the lead supervisory authority or the effectiveness of the rights of the parties under investigation to be heard. In particular, the Board should not extend the scope of the investigation on its own initiative. *Regulation 2016/679 enables the supervisory authority to request an urgent binding decision from the Board where a competent supervisory authority has not taken an appropriate measure in a situation where there is an urgent need to act, in order to protect the rights and freedoms of data subjects. Under this Regulation, where following the use of the means set out in this Regulation the supervisory authorities fail to reach a consensus on the scope of a complaint-based investigation, the conditions under Article 66(3) of Regulation (EU) 2016/679 to request an urgent binding decision should be presumed to be met and the lead supervisory authority should request an urgent binding decision of the Board. The urgent binding decision of the Board on the scope of a complaint-based investigation cannot pre-empt the outcome of the investigation of the lead supervisory authority or the effectiveness of the right to be heard of the parties under investigation.*
- (16a) *Procedural rights should be conferred on the complainant to the extent his or her rights and freedoms as a data subject are concerned. Procedural steps laid down in this regulation, relating to the cooperation between supervisory authorities, do not confer rights on the complainant or the parties under investigation. Therefore this regulation clarifies which provisions on procedural steps do not confer rights on individuals or parties under investigation, or do not limit those rights.*

- (17) ~~To enable the complainant to exercise her or his right to an effective judicial remedy under Article 78 of Regulation (EU) 2016/679, the supervisory authority fully or partially rejecting a complaint should do so by means of a decision which may be challenged before a national court.~~
- (18) Complainants should have the opportunity to express their views before a decision adversely affecting them is taken. Therefore, in the event of full or partial rejection of a complaint in a cross-border case, the complainant should have the opportunity to make her or his views known prior to the submission of a draft decision under Article 60(3) of Regulation (EU) 2016/679, a revised draft decision under Article 60(4) of Regulation (EU) 2016/679 or a binding decision of the Board under Article 65(1), point (a), of Regulation (EU) 2016/679. ~~The complainant may request access to the non-confidential version of the documents on which the decision fully or partially rejecting the complaint is based.~~
- (19) It is necessary to clarify the division of responsibilities between the lead supervisory authority and the supervisory authority with which the complaint was lodged in the case of **full or partial rejection or dismissal** of a complaint in a cross-border case. As the point of contact for the complainant during the investigation, the supervisory authority with which the complaint was lodged should obtain the views of the complainant on the proposed **full or partial rejection or dismissal** of the complaint and **that authority** should be responsible for all communications with the complainant. All such communications should be shared with the lead supervisory authority. Since under Article 60(8) and (9) of Regulation (EU) 2016/679 the supervisory authority with which the complaint was lodged has the responsibility of adopting the final decision **fully or partially rejecting or dismissing** the complaint, ~~that~~ **the lead** supervisory authority should also have the responsibility of ~~preparing~~ **prepare** the draft decision under Article 60(3) of Regulation (EU) 2016/679, **in cooperation with the supervisory authority with which the complaint has been lodged, including the possibility to request the assistance of the supervisory authority with which the complaint has been lodged in preparing such a draft.**

- (20) The effective enforcement of Union data protection rules should be compatible with the full respect of the parties' rights of defence, which constitutes a fundamental principle of Union law to be respected in all circumstances, and in particular in procedures which may give rise to penalties.
- (21) In order to effectively safeguard the right to good administration and the rights of defence as enshrined in the Charter of Fundamental Rights of the European Union ('the Charter'), including the right of every person to be heard before any individual measure which would affect him or her adversely is taken, it is important to provide for clear rules on the exercise of this right.
- (22) The rules regarding the administrative procedure applied by supervisory authorities when enforcing Regulation (EU) 2016/679 should ensure that the parties under investigation effectively have the opportunity to make known their views on the truth and relevance of the facts, objections and circumstances put forward by the supervisory authority throughout the procedure, thereby enabling them to exercise their rights of defence. The preliminary findings set out the preliminary position on the alleged infringement of Regulation (EU) 2016/679 following investigation. They thus constitute an essential procedural safeguard which ensures that the right to be heard is observed. The parties under investigation should be provided with the documents required to defend themselves effectively and to comment on the allegations made against them, by receiving access to the administrative file.
- (22a) These rules should be without prejudice to the possibility for supervisory authorities to grant further access to the administrative file in order to hear further the views of any of the parties under investigation or of the complainant in the course of the proceedings, in accordance with national law.***

(23) The preliminary findings define the scope of the investigation and therefore the scope of any future final decision (as the case may be, taken on the basis of a binding decision issued by the Board under Article 65(1), point (a) of Regulation (EU) 2016/679) which may be addressed to controllers or processors. The preliminary findings should be couched in terms that, even if succinct, are sufficiently clear to enable the parties under investigation to properly identify the nature of the alleged infringement of Regulation (EU) 2016/679. The obligation of giving the parties under investigation all the information necessary to enable them to properly defend themselves is satisfied if the final decision does not allege that the parties under investigation have committed infringements other than those referred to in the preliminary findings and only takes into consideration facts on which the parties under investigation have had the opportunity of making known their views. The final decision of the lead supervisory authority is not, however, necessarily required to be a replica of the preliminary findings. The lead supervisory authority should be permitted in the final decision to take account of the responses of the parties under investigation to the preliminary findings, and, where applicable, the revised draft decision under Article 60(5) of Regulation (EU) 2016/679, and the Article 65(1), point (a), decision resolving the dispute between the supervisory authorities. The lead supervisory authority should be able to carry out its own assessment of the facts and the legal qualifications put forward by the parties under investigation in order either to abandon the objections when the supervisory authority finds them to be unfounded or to supplement and redraft its arguments, both in fact and in law, in support of the objections which it maintains. For example, taking account of an argument put forward by a party under investigation during the administrative procedure, without it having been given the opportunity to express an opinion in that respect before the adoption of the final decision, cannot ~~per se~~ *per se* constitute an infringement of defence rights.

(23a) *This regulation provides for rules where the lead supervisory authority is required by national law to further engage in subsequent domestic procedures related to the same case, such as administrative appeal proceedings.*

- (24) The parties under investigation should be provided with a right to be heard prior to the submission of a revised draft decision under Article 60(5) of Regulation (EU) 2016/679 or the adoption of a binding decision by the Board pursuant to Article 65(1), point (a), of Regulation (EU) 2016/679. ***New legal elements include relevant and reasoned objections where those objections contain legal assessments different from those proposed by the lead supervisory authority in the draft decision submitted pursuant to Article 60(4) of Regulation (EU) 2016/679.***
- (25) Complainants should be given the possibility to be associated with the proceedings initiated by a supervisory authority with a view to identifying or clarifying issues relating to a potential infringement of Regulation (EU) 2016/679. The fact that a supervisory authority has already initiated an investigation concerning the subject matter of the complaint or will deal with the complaint in an ex officio investigation subsequent to the receipt ***of*** the complaint does not bar the qualification of a data subject as complainant. ~~However, An investigation by a supervisory authority of a possible infringement of Regulation (EU) 2016/679 by a controller or processor does not constitute an adversarial procedure between the complainant and the parties under investigation. It is a procedure commenced by a supervisory authority, upon its own initiative or based on a complaint, in fulfilment of its tasks under Article 57(1) of Regulation (EU) 2016/679. The parties under investigation and the complainant are, therefore, not in the same procedural situation, and it is essential to safeguard and the latter cannot invoke the right to a fair hearing when the decision does not adversely affect her or his legal position of defence of the party under investigation. The complainant's involvement in the procedure against the parties under investigation cannot compromise the~~ ***and the complainant can invoke the fundamental right of these parties to be heard: when the decision adversely affects their legal position***
- (26) The complainants should be given the possibility to submit in writing views on the preliminary findings ***to the extent that it relates to their complaint concerning the processing of their personal data.*** However, they should not have access to ~~business trade secrets or other confidential information belonging to other parties involved in the proceedings. Complainants should not be entitled to have generalised access to the administrative file.~~

- (27) When setting deadlines for parties under investigation and complainants to provide their views on preliminary findings, supervisory authorities should have regard to the complexity of the issues raised in preliminary findings, in order to ensure that the parties under investigation and complainants have sufficient opportunity to meaningfully provide their views on the issues raised.
- (28) The exchange of views prior to the adoption of a draft decision involves an open dialogue and an extensive exchange of views where supervisory authorities should do their utmost to find a consensus on the way forward in an investigation. Conversely, the disagreement expressed in relevant and reasoned objections pursuant to Article 60(4) of Regulation (EU) 2016/679, which raise the potential for dispute resolution between supervisory authorities under Article 65 of Regulation (EU) 2016/679 and delay the adoption of a final decision by the competent supervisory authority, should arise in the ~~exceptional~~ case of a failure of supervisory authorities to achieve a consensus and where necessary to ensure the consistent interpretation of Regulation (EU) 2016/679. Such objections should be used ~~sparingly~~, when matters of consistent enforcement of Regulation (EU) 2016/679 are at stake, ~~since every use of relevant and reasoned objections postpones the remedy for the data subject. Since the scope of the investigation and the relevant facts should be decided prior to the communication of preliminary findings, these matters should not be raised by supervisory authorities concerned in relevant and reasoned objections. They may, however, be raised by supervisory authorities concerned in their comments on the summary of key issues pursuant to Article 9(3), before preliminary findings are communicated to the parties under investigation.~~
- (29) In the interest of the efficient and inclusive conclusion of the dispute resolution procedure, where all supervisory authorities should be in a position to contribute their views and bearing in mind the time constraints during dispute resolution, the form and structure of relevant and reasoned objections should meet certain requirements. ~~Therefore, relevant and reasoned objections should be limited to a prescribed length, should clearly identify the disagreement with the draft decision and should be worded in sufficiently clear, coherent and precise terms.~~

- (30) Access to the administrative file is provided for as a part of the rights of defence and the right to good administration enshrined in the Charter. Access to the administrative file should be provided to the parties under investigation when they are notified of preliminary findings and the deadline to submit their written reply to the preliminary findings should be set.
- (31) When granting access to the administrative file *to parties under investigation and the complainant*, supervisory authorities should ensure the protection of ~~business~~ *trade* secrets and other confidential information. The category of other confidential information includes information other than ~~business~~ *trade* secrets, which may be considered as confidential *in accordance with Union and national law*, insofar as its disclosure would significantly harm a controller, a processor or a natural *or legal* person. *Confidential information shall in particular include information which is known only to a limited number of persons and which disclosure is liable to cause serious harm to the person who provided it or to third parties, and where the interests liable to be harmed by the disclosure of such information are, objectively, worthy of protection.* The supervisory authorities should be able to request that parties under investigation that submit or have submitted documents or statements identify confidential information.
- (32) Where ~~business~~ *trade* secrets or other confidential information are necessary to prove an infringement, the supervisory authorities should assess for each individual document *in a proportionate manner* whether the need to disclose is greater than the harm which might result from disclosure.
- (32a) *Access to documents included in the administrative file on the basis of access to public documents is to be provided in accordance with Member States law. In this regard, it is important that the integrity of the decision-making process is protected until the final decision is adopted by the competent supervisory authority.*

- (32b) *It is important that the Board facilitate access to decisions adopted in accordance with the cooperation and consistency mechanisms, by making the text of the final decisions adopted by national supervisory authorities available online through easily accessible registers. In accordance with applicable national law, supervisory authorities can redact names, any other information that allows for the identification of parties under investigation or the complainant, and other information that is protected under applicable Union and national law.*
- (32c) *It is important that the provision to the complainant of a version of the final decision in accordance with this Regulation remains without prejudice to the possibility for a supervisory authority to decide whether to make the decision public as part of its corrective powers.*
- (33) When referring a subject-matter to dispute resolution under Article 65 of Regulation (EU) 2016/679, the lead supervisory authority should provide the Board with all necessary information to enable it to assess the admissibility of relevant and reasoned objections and to take the decision pursuant to Article 65(1), point (a), of Regulation (EU) 2016/679. Once the Board is in receipt of all the necessary documents ~~listed in Article 23~~, the Chair of the Board should register the referral of the subject-matter in ~~the sense of~~ **accordance with** Article 65(2) of Regulation (EU) 2016/679.
- (34) The binding decision of the Board under Article 65(1), point (a), of Regulation (EU) 2016/679 should concern exclusively matters which led to the triggering of the dispute resolution and be drafted in a way which allows the lead supervisory authority to adopt its final decision on the basis of the decision of the Board ~~while maintaining its discretion~~.
- (35) In order to streamline the resolution of disputes between supervisory authorities submitted to the Board under Article 65(1), points (b) and (c), of Regulation (EU) 2016/679, it is necessary to specify procedural rules regarding the documents to be submitted to the Board and on which the Board should base its decision. It is also necessary to specify when the Board should register the submission of the matter to dispute resolution.

- (36) In order to streamline the procedure for the adoption of urgent opinions and urgent binding decisions of the Board under Article 66(2) of Regulation (EU) 2016/679, it is necessary to specify procedural rules regarding the timing of the request for an urgent opinion or urgent binding decision, the documents to be submitted to the Board and on which the Board should base its decision, ~~to whom the opinion or decision of the Board should be addressed, and the consequences of the opinion or decision of the Board.~~
- (36a) *Regulation (EU) 2016/679 provides that the data subject has a right to an effective judicial remedy where a competent supervisory authority does not handle a complaint. This Regulation does not create new judicial remedies in addition to the ones already established by Regulation (EU) 2016/679, nor does it limit the application of the judicial remedies established by that Regulation. Certain provisions of this Regulation have particular importance for the timely delivery of the final decision by the supervisory authorities when handling complaints. When deciding whether a supervisory authority has handled a complaint, consideration should be given to whether certain time limits laid down in this Regulation and in Regulation (EU) 2016/679 were met by the supervisory authority. In making that determination it is essential to safeguard the right of the complainant to have his or her complaint handled within a reasonable time. The provisions of this Regulation are without prejudice to the possibility of foreseeing remedies in national law for the party under investigation, in view of their right to have their affairs handled within a reasonable time.*

- (37) Chapters III and IV concern cooperation between supervisory authorities, the procedural rights of parties under investigation and the involvement of complainants. To ensure legal certainty, those provisions should not apply to investigations already under way at the time this Regulation enters into force. They should apply to ~~ex-officio~~ **ex officio** investigations opened after the entry into force of this Regulation and to complaint-based investigations where the complaint was lodged after the entry into force of this Regulation. Chapter V provides procedural rules for cases submitted to dispute resolution under Article 65 of Regulation (EU) 2016/679. Also for reasons of legal certainty, this Chapter should not apply to cases that have been submitted to dispute resolution prior to the entry into force of this Regulation. It should apply to all cases submitted to dispute resolution after the entry into force of this Regulation.
- (37a) ***The implementation of the Regulation requires adequate digital tools supporting the rapid and secure exchange of information. It is important that an appropriate secure common electronic tool be available for all data protection authorities, taking into account the experience gained in using the existing tools. It is also important that resources needed for the implementation of such an electronic tool be provided and that such tool facilitate the collection and consolidation of enforcement statistics on cross-border cases by the Board.***
- (38) The European Data Protection Supervisor and the European Data Protection Board were consulted in accordance with Article 42(2) of Regulation (EU) 2018/1725 and delivered a joint opinion on ~~19~~ **19 September 2023**,

HAVE ADOPTED THIS REGULATION:

## **Chapter I**

### **General provisions**

#### **SECTION 1A**

#### **SUBJECT MATTER, SCOPE, AND DEFINITIONS**

##### *Article 1*

#### **Subject matter and scope**

This Regulation lays down procedural rules for the handling of complaints and the conduct of investigations in complaint-based and ~~ex officio~~ **ex officio** cases by supervisory authorities in the ~~cross-border~~ enforcement of Regulation (EU) 2016/679 **for cross-border processing, including the determination of whether a case relates to cross-border processing.**

##### *Article 2*

#### **Definitions**

For the purposes of this Regulation the definitions in Article 4 of Regulation (EU) 2016/679 shall apply.

The following definitions shall also apply:

- (1) ‘~~parties~~ **party** under investigation’ means the controller(s) and/or processor(s) investigated for alleged infringement of Regulation (EU) 2016/679 related to cross-border processing;
- (2) ‘summary of key issues’ means the summary to be provided by the lead supervisory authority to supervisory authorities concerned, identifying the main relevant ~~facts~~ **factual and legal issues** and the lead supervisory authority’s **factual and legal** views on the case;

- (3) ~~‘preliminary findings’ means the document provided by the lead supervisory authority to the parties under investigation setting out the allegations, the relevant facts, supporting evidence, legal analysis, and, where applicable, proposed corrective measures;~~
- (4) ~~‘retained relevant and reasoned objections’ means the objections which have been determined by the Board to be relevant and reasoned within the meaning of Article 4(24) of Regulation (EU) 2016/679.~~

## **SECTION 2**

### *Article 2a*

#### ***Principles relating to the procedures in the enforcement of Regulation (Eu) 2016/679 for cross-border processing***

- 1. Supervisory authorities shall conduct procedures in an expedient and efficient way and shall cooperate with each other in a sincere and effective manner, including by providing support where necessary and responding to requests without delay.***
- 2. A supervisory authority may join and separate proceedings in accordance with national procedural law, insofar as this does not undermine the rights of the parties under investigation and the complainant.***
- 3. A complainant shall have the possibility to communicate exclusively with the supervisory authority with which the complaint has been lodged pursuant to Article 77 of Regulation (EU) 2016/679.***
- 4. The handling of a complaint shall always lead to a decision that is subject to an effective legal remedy within the meaning of Article 78 of Regulation (EU) 2016/679.***
- 5. In the interest of efficiency of the procedures, supervisory authorities may limit the length of the submission by the party under investigation and the complainant, taking into account the complexity of the case and the documents submitted so far.***

## Chapter II

### **Submission and handling of complaints and early resolution**

#### *Article 3*

#### **~~cross-border complaints~~ Complaints concerning cross-border processing**

1. ~~A complaint on the basis of Regulation (EU) 2016/679 that relates to cross-border processing shall provide the information required in the Form, as set out in the Annex. No additional information shall be required in order for the complaint to be admissible. A~~ ***complaint on the basis of Regulation (EU) 2016/679 concerning cross-border processing shall be admissible provided that it includes the following information:***
- (a) name of person or entity lodging the complaint;***
  - (b) where the complaint is lodged by a body, organisation or association referred to in Article 80 of Regulation (EU) 2016/679, proof that the body, organisation or association has been properly constituted in accordance with the law of a Member State;***
  - (c) where the complaint is lodged on the basis of Article 80(1) of Regulation 2016/679, name of the body, organisation or association, contact details and proof that the body, organisation or association lodging the complaint is acting on the basis of the mandate of a data subject;***
  - (d) contact details of the person or entity lodging the complaint;***
  - (e) information which facilitates the identification of the controller or processor which is the subject of the complaint;***
  - (f) description of the alleged infringement of Regulation (EU) 2016/679.***

***Only information referred to in the first subparagraph shall be required in order for the complaint relating to cross-border processing to be admissible.***

*Administrative modalities and requirements under the national procedural law of the supervisory authority with which the complaint is lodged shall continue to apply.*

- 1a. Where the supervisory authority with which a complaint has been lodged determines that the complaint does not contain the information referred to paragraph 1, it shall, within two weeks of receiving the complaint, declare the complaint inadmissible and inform the complainant about the reasons thereof.*
- 1a. Without prejudice to the admissibility of a complaint, supervisory authorities may ask the submission of supplementary information by the complainant in order to facilitate the handling of the complaint and enable the full investigation of the case.*
- 1b. The complainant shall not be required to contact the party under investigation before lodging a complaint in order for that complaint to be admissible. Without prejudice to the admissibility of the complaint, where the complaint relates to the exercise of a right of the data subject which relies on a request to be submitted to the data controller by the data subject concerned, such request shall be made to the controller before the submission of the complaint.*
- 2. The supervisory authority with which the complaint was lodged shall ~~establish~~ **determine**, by way of a preliminary conclusion, whether the complaint relates to cross-border processing, *which supervisory authority is assumed to act as a lead supervisory authority in accordance with Article 56, paragraph 1 of Regulation (EU) 2016/679, and if Article 56, paragraph 2 of Regulation (EU) 2016/679 applies.**
- 2a. The lead supervisory authority shall without delay inform the party under investigation about the lodging of a complaint and of its main elements.*
- 3. ~~The supervisory authority with which the complaint was lodged shall determine the completeness of the information required by the Form within one month.~~*

4. Upon assessment of the completeness of the information required by the Form *Where a complaint that relates to cross-border processing is admissible, in the absence of early resolution pursuant to Article 5*, the supervisory authority with which the complaint was lodged shall transmit the complaint to the *presumed lead supervisory authority and inform the complainant thereof. The assessment of the admissibility of the complaint by the supervisory authority with which the complaint has been lodged shall be binding on the lead supervisory authority.*
- 4a. *The supervisory authority with which the complaint has been lodged shall transmit the complaint to the assumed lead supervisory authority no later than 6 weeks from receiving the complaint, after having concluded the assessment of admissibility of the complaint, that the case concerns cross-border processing and the determination as to the presumed lead supervisory authority.*
- 4b. *Within six weeks after receipt of the complaint, the assumed lead supervisory authority shall either confirm its competence or, where there are conflicting views on which supervisory authorities concerned is competent for the main establishment, refer the subject-matter to the Board for dispute resolution under Article 65 (1) (b) of Regulation (EU) 2016/679.*

*Where the lead supervisory authority does not confirm its competence or refer the subject-matter to the Board within the time limit referred to in the first subparagraph, the supervisory authority with which the complaint has been lodged shall refer the subject-matter to the Board.*

5. ~~Where the complainant claims confidentiality when submitting a complaint, the complainant shall also submit a non-confidential version of the complaint.~~
6. ~~The supervisory authority with which a complaint was lodged shall acknowledge receipt of the complaint within one week. This acknowledgement shall be without prejudice to the assessment of admissibility of the complaint pursuant to paragraph 3.~~

## Chapter IIa

### *Article 4*

#### **Investigation of complaints**

While assessing the extent appropriate to which a complaint should be investigated in each case the supervisory authority shall take into account all relevant circumstances, including all of the following:

- (a) the expediency of delivering an effective and timely remedy to the complainant;
- (b) the gravity of the alleged infringement;
- (c) the systemic or repetitive nature of the alleged infringement.

### *Article 5*

#### **Amicable settlement *Early resolution***

*1. A complaint may be resolved by amicable settlement between the complainant and the parties under investigation, where the supervisory authority considers that an amicable settlement to the complaint has been found, it shall communicate the proposed settlement to the complainant. If the complainant does not object to the amicable settlement proposed by the supervisory authority within one month, the complaint shall be deemed withdrawn. A complaint relating to cross-border processing which concerns the exercise of the rights of the data subject under Chapter III of Regulation (EU) 2016/679, may be resolved, where appropriate, through a procedure allowing for its early resolution by:*

- (a) the supervisory authority with which the complaint was lodged, after determining by way of preliminary conclusion that the complaint relates to cross-border processing and prior to the possible transmission of the complaint to the lead supervisory authority, or*

*(b) the lead supervisory authority to which the complaint has been transmitted, at any time before the submission of the preliminary findings to supervisory authorities concerned pursuant to Article 14 of this Regulation, or, where the simple procedure referred to in Article 6bis applies, before the submission of the draft decision.*

*Supervisory authorities may encourage and facilitate such early resolution and communicate with the controller or the complainant for this purpose, as appropriate.*

- 2. For the purpose of early resolution, a complaint shall be considered devoid of purpose where the supervisory authority has established, based on supporting evidence, that the alleged infringement has been brought to an end.*
- 3. The supervisory authority shall inform the complainant of the finding under paragraph 2 and of the consequences of the early resolution, using clear and plain language, including of the possibility that he or she may submit an objection within four weeks of receiving such information.*
- 4. In a procedure before the supervisory authority with which the complaint was lodged, where the complainant does not object within the deadline set out in paragraph 3, the supervisory authority shall establish that the complaint has been resolved and inform the complainant and the party under investigation within 2 weeks, and, where applicable, the lead supervisory authority thereof.*
- 5. In a procedure before the lead supervisory authority to which the complaint has been transmitted, where the complainant does not object within the deadline set out in paragraph 3, the authority shall submit a draft decision in accordance with Article 60(3) of Regulation (EU) 2016/679 within 4 weeks, with a view to adopting a final decision in accordance with Article 60(7) of Regulation (EU) 2016/679 establishing that the complaint has been resolved.*

6. *The early resolution of a complaint shall be without prejudice to the exercise by the lead supervisory authority of its powers in accordance with Article 58 of Regulation (EU) 2016/679 on the same subject matter.*
7. *Articles 9 to 15 of this Regulation do not apply to complaint-based cases resolved pursuant to this Article.*

*Article 6*

**Translations**

- ~~1. The supervisory authority with which the complaint was lodged shall be responsible for:~~
- ~~(a) translation of complaints and the views of complainants into the language used by the lead supervisory authority for the purposes of the investigation;~~
  - ~~(b) translation of documents provided by the lead supervisory authority into the language used for communication with the complainant, where it is necessary to provide such documents to the complainant pursuant to this Regulation or Regulation (EU) 2016/679.~~
- ~~2. In its rules of procedure, the Board shall determine the procedure for the translation of comments or relevant and reasoned objections expressed by supervisory authorities concerned in a language other than the language used by the lead supervisory authority for the purposes of the investigation.~~

## Chapter III

### Cooperation under Article 60 of Regulation (EU) 2016/679

#### SECTION 1

#### ~~REACHING CONSENSUS WITHIN THE MEANING OF ARTICLE 60(1) OF REGULATION~~ ~~(EU) 2016/679~~ SECTION 1 SIMPLE COOPERATION

#### *Article 6bis*

#### *Simple cooperation procedure*

1. *Once the lead supervisory authority has formed a preliminary view on the main issues in an investigation, it may cooperate with supervisory authorities concerned through a simple cooperation procedure, in accordance with this Article, where:*
  - (a) *the lead supervisory authority considers that no reasonable doubt exists as to the scope of the investigation, in particular the provisions of Regulation (EU) 2016/679 concerned by the alleged infringement which are to be investigated; and*
  - (b) *the legal and factual issues identified by the lead supervisory authority do not require additional cooperation between supervisory authorities for the purpose of a complex investigation, in particular where they can be addressed based on previous decisions in similar cases.*

*In such a case, Articles 9, 10, 11, 14, 15, 18(1), points (a) and (b) and 18(2) of this Regulation shall not apply, and the lead supervisory authority shall submit a draft decision in accordance with Article 60(3) of Regulation (EU) 2016/679 within the time limit referred to in Article 10a, paragraph 6, of this Regulation.*

2. *The lead supervisory authority shall notify the supervisory authorities concerned of its intention to apply the simple cooperation procedure, providing information on the characteristics of the case relevant to establishing the conditions set out in paragraph 1, no later than within six weeks from the confirmation of its competence pursuant to Article 3, paragraph 4a of this Regulation or after a binding decision by the Board pursuant to Article 65, paragraph 1, point b), of Regulation (EU) 2016/679.*
3. *Where any of the supervisory authorities concerned objects to the application of the simple cooperation procedure, within two weeks after having been notified of it, this procedure shall not apply and the lead supervisory authority shall draft a summary of key issues in accordance with Article 9 of this Regulation and cooperate under the procedures pursuant to Chapter III of this Regulation.*
4. *When applying the procedure referred to in paragraph 1, the lead supervisory authority shall, prior to the submission of a draft decision, ensure that, where applicable, the parties under investigation are provided with the right to be heard and the complainant is provided with an opportunity to make his or her views known. For the purpose of this paragraph, administrative modalities and requirements under national procedural law of the lead supervisory authority, or the supervisory authority with which the complaint has been lodged, where applicable, shall continue to apply.*
5. *Chapter III does not apply to cases handled by the concerned supervisory authority pursuant to Article 56, paragraph 2 of Regulation (EU) 2016/679.*

## **SECTION 1A**

### **REACHING CONSENSUS WITHIN THE MEANING OF ARTICLE 60(1) OF REGULATION (EU) 2016/679**

#### **Article 6b**

##### **Conferral or limitation of rights**

*The provisions in this section concern the cooperation between supervisory authorities and do not confer or limit rights on individuals or the parties under investigation.*

#### **Article 7**

##### **Cooperation between supervisory authorities**

While cooperating in an endeavour to reach a consensus, as provided for in Article 60(1) of Regulation (EU) 2016/679, supervisory authorities shall use all the means provided for in Regulation (EU) 2016/679, including mutual assistance pursuant to Article 61 and joint operations pursuant to Article 62 of Regulation (EU) 2016/679.

~~The provisions in this section concern the relations between supervisory authorities and are not intended to confer rights on individuals or the parties under investigation.~~

#### **Article 8**

##### **Relevant information to be exchanged between the lead supervisory authority and supervisory authorities concerned within the meaning of Article 60(1) and (3) of Regulation (EU) 2016/679**

1. ~~The lead supervisory authority shall regularly update the other~~ **and the** supervisory authorities concerned about the investigation and provide the other supervisory authorities concerned, at the earliest convenience, with all **shall exchange** relevant information ~~once available~~ **within the meaning of Article 60(1) and (3) of Regulation (EU) 2016/679.**

2. ~~Relevant Information within the meaning of Article 60(1) and (3) of Regulation (EU) 2016/679~~***referred to in paragraph 1*** shall include, where applicable:
- (a) information on the opening of an investigation of an alleged infringement of Regulation (EU) 2016/679;
  - (b) requests for information pursuant to Article 58(1), point (e) of Regulation (EU) 2016/679 ***and related documents resulting from these requests***;
  - (c) information of the use of other investigative powers referred to in Article 58(1) of Regulation (EU) 2016/679 ***and related documents resulting from the exercise of these powers***;
  - (d) in the case of envisaged rejection of complaint, the lead supervisory authority's reasons for rejection of the complaint;
  - (da) the early resolution of the complaint pursuant to Article 5 of this Regulation;***
  - (e) ***the*** summary of key issues in an investigation ***and related comments*** in accordance with Article 9;
  - (ea) information on the scope of investigation, including developments or findings which might lead to the modification of the scope of investigation or the initiation of a new investigation;***
  - (f) information concerning steps ***and legal analysis*** aiming to establish an infringement of Regulation (EU) 2016/679 prior to the preparation of preliminary findings ***and prior to the preparation of the draft decision***;
  - (g) preliminary findings;
  - (h) the response of the parties under investigation to the preliminary findings;

- (i) the views of the complainant on the *non-confidential version of the* preliminary findings *and, if relevant, on other aspects of the investigation on which formal written submissions might have been made by the complainant;*
  - (j) in the case of rejection of a complaint, the written submissions of the complainant;
  - (k) any relevant steps taken by the lead supervisory authority after receiving the response of the parties under investigation to the preliminary findings and prior to submission of a draft decision in the sense of Article 60(3) of Regulation (EU) 2016/679.
- (ka) *the views made by the parties under investigation on a revised draft decision;*
- (kb) *any other information deemed useful and relevant for the purpose of the investigation.*

- 2a. *In the course of the investigation, the lead supervisory authority and the supervisory authorities concerned shall exchange the information referred to in paragraph 2 as soon as that information becomes available and, unless otherwise provided for in this Regulation or in Regulation (EU) 2016/679, no later than one week from when such information becomes available.*
- 2b. *The Board may specify the modalities and requirements for the exchange of relevant information between supervisory authorities referred to in this Article and for the provision of comments by supervisory authorities concerned on the summary of key issues.*

## Article 9

### Summary of key issues

1. Once the lead supervisory authority has formed a preliminary view on the main issues in an investigation, it shall draft a summary of key issues for the purpose of cooperation under Article 60(1) of Regulation (EU) 2016/679. ***When transferring a case to the lead supervisory authority, the supervisory authority with which the complaint was lodged, may provide relevant elements to the lead supervisory authority.***
2. The summary of key issues shall include all of the following elements:
  - (a) the main relevant facts;
  - (b) a preliminary identification of the scope of the investigation, in particular the provisions of Regulation (EU) 2016/679 concerned by the alleged infringement which ~~will~~***are to*** be investigated;
  - (c) identification of ~~complex~~ legal and ~~technological~~ assessments which are relevant for preliminary orientation of their assessment ***factual issues***;
  - (ca) ***analysis of relevant views as expressed by a party under investigation or the complainant where available when the summary is drafted***;
  - (d) ***where applicable***, preliminary identification of ~~potential~~ corrective measure(s).
- 2a. ***The summary of key issues shall be communicated to the supervisory authorities concerned without delay, and no later than three months after the lead supervisory authority has confirmed its competence pursuant to Article 3, paragraph 4a of this Regulation or after a binding decision by the Board pursuant to Article 65, paragraph 1, point b), of Regulation (EU) 2016/679.***

3. The supervisory authorities concerned may provide comments on the summary of key issues. Such comments must be provided within four weeks of receipt of the summary of key issues. *The period may be extended by the lead supervisory authority by another two weeks on account of the complexity of the case or upon request of the supervisory authorities concerned.*
4. Comments provided pursuant to paragraph 3 shall meet the following requirements:
4. *In cases where the supervisory authorities concerned provided comments under paragraph 3, they shall be shared with all other supervisory authorities concerned. The lead supervisory authority shall respond to these comments within four weeks to indicate whether and how it intends to take them into account. The period may be extended by another two weeks on account of the complexity of the case.*
- (a) ~~language used is sufficiently clear and contains precise terms to enable the lead supervisory authority, and, as the case may be, supervisory authorities concerned, to prepare their positions;~~
- (b) ~~legal arguments are set out succinctly and grouped by reference to the part of the summary of key issues to which they relate;~~
- (c) ~~the comments of the supervisory authority concerned may be supported by documents, which may supplement the comments on specific points.~~
5. ~~The Board may specify in its rules of procedure restrictions on the maximum length of comments submitted by supervisory authorities concerned on the summary of key issues.~~
6. ~~Cases where none of the supervisory authorities concerned provided comments under paragraph 3 of this Article shall be considered non-contentious cases. In such cases, the preliminary findings referred to in Article 14 shall be communicated to the parties under investigation within 9 months of the expiry of the deadline provided for in paragraph 3 of this Article.~~

Use of means to reach consensus *within the meaning of Article 60(1) of Regulation (EU) 2016/679*

- 1. ***Pursuant to Article 60(1) of Regulation (EU) 2016/679, the lead supervisory authority and supervisory authorities concerned shall endeavour to reach consensus on cross-border processing cases, in accordance with this Article, and may use all the means provided for in Regulation (EU) 2016/679, including mutual assistance pursuant to Article 61 and joint operations pursuant to Article 62 of Regulation (EU) 2016/679.***
1. ***In cases where a supervisory authority concerned shall disagrees with the lead supervisory authority and in the absence of consensus, that supervisory authority may make a request to the lead supervisory authority under Article 61 of Regulation (EU) 2016/679, or to trigger Article 62 of Regulation (EU) 2016/679, or both, where, following the comments of supervisory authorities concerned pursuant to Article 9(3), a supervisory authority concerned disagrees with the assessment of the lead supervisory authority in order to reach consensus on:***
- (a) the scope of the investigation in complaint-based cases, including the provisions of Regulation (EU) 2016/679 concerned by the alleged infringement which will be investigated;
  - (b) ~~preliminary orientation in relation to complex~~ ***the factual or*** legal assessments ***issues*** identified by the lead supervisory authority pursuant to Article 9(2), point (c), ***where applicable;***
  - (e) ~~preliminary orientation in relation to complex technological assessments identified by the lead supervisory authority pursuant to Article 9(2), point (e).~~
  - (ca) ***preliminary identification of potential corrective measure(s) pursuant to Article 9(2), point (d).***

2. The request under paragraph 1 shall be made within ~~two months~~ **one month** of the expiry of the period referred to in Article ~~9(3)~~**9(4)**.
- 2a. ***Where a request to conduct joint operations pursuant to Article 62 of Regulation (EU) 2016/679 is made by a concerned supervisory authority, the lead supervisory authority shall respond to the request within one month.***
3. The lead supervisory authority shall engage with the supervisory authorities concerned on the basis of their comments on the summary of key issues, and, where applicable, in response to requests under Article 61 and 62 of Regulation (EU) 2016/679, in an endeavour to reach a consensus. The consensus shall be used as a basis for the lead supervisory authority to continue the investigation and draft the preliminary findings or, where applicable, provide the supervisory authority with which the complaint was lodged with its reasoning for the purposes of Article 11(2).
4. Where, in a complaint-based investigation, ***following the procedures under Article 9(4) and paragraph 3 of this Article***, there is no consensus between the lead supervisory authority and one or more ~~concerned~~ supervisory authorities ***concerned*** on the ~~matter~~ ***matters*** referred to in Article 9(2), point (b), ~~of this Regulation~~, the lead supervisory authority shall request an urgent binding decision of the Board under Article 66(3) of Regulation (EU) 2016/679. In that case, the conditions for requesting an urgent binding decision under Article 66(3) of Regulation (EU) 2016/679 shall be presumed to be met.
5. When requesting an urgent binding decision of the Board pursuant to paragraph 4 of this Article, the lead supervisory authority shall provide all of the following:
- (a) the ~~documents~~ ***elements*** referred to in Article 9(2), ~~points (a) and (b)~~;
  - (b) the comments of the supervisory ~~authority~~ ***authorities*** concerned that ~~disagrees~~ ***disagree*** with the lead supervisory authority's preliminary identification of the scope of the investigation.

- (c) *further exchanges between the lead supervisory authority and the supervisory authorities concerned under Article 9(4), 9(5) and 10(3);*
- (d) *any other relevant document or information, as requested by the Board.*
6. The Board shall adopt an urgent binding decision on the scope of the investigation on the basis of ~~the comments of the supervisory authorities concerned and the position of the lead supervisory authority on those comments~~ *all the documents received.*

#### *Article 10a*

##### *Time limits for submission of a draft decision*

1. *The lead supervisory authority shall submit a draft decision pursuant to Article 60(3) of Regulation (EU) 2016/679 no later than 15 months after the lead supervisory authority has confirmed its competence pursuant to Article 3, paragraph 4a of this Regulation or after a binding decision by the Board pursuant to Article 65, paragraph 1, point b), of Regulation (EU) 2016/679. This time limit may be extended once by the lead supervisory authority in line with the procedure in paragraph 3 and 4.*
2. *Where a request under Article 10(4) of this Regulation has been made, the time limits referred to in paragraph 1 shall be suspended until the Board has adopted its binding decision.*
3. *In an exceptional case, the lead supervisory authority may extend the time limit referred to in paragraph 1 for a maximum period of 12 months on account of complexity of the case. In such a case, the lead supervisory authority shall inform the supervisory authorities concerned thereof and set out the duration of and reasons for the intended extension, at least four weeks before the expiry of the time limit referred to in paragraph 1.*

4. *Any supervisory authority concerned may submit an objection to the extension within two weeks from being informed pursuant to paragraph 3. The authority shall set out the reasons for its objection. When determining whether to apply an extension to the time limit and, where applicable, the length of such an extension, the lead supervisory authority shall take due account of such an objection.*
5. *Following the extension referred to in paragraph 3 of this Article, any supervisory authority concerned may inform the lead supervisory authority that it considers there is a need to act in order to protect the rights and freedoms of data subjects. Where the lead supervisory authority does not submit a draft decision within the extended time limit referred to in paragraph 3, an authority that has informed of a need to act in order to protect the rights and freedoms of data subjects may adopt a provisional measure on the territory of its Member State in accordance with Article 55 of Regulation (EU) 2016/679. In that case, the urgent need to act under Article 66(1) of Regulation (EU) 2016/679 shall be presumed to be met.*
6. *Where the simple cooperation procedure under Article 6bis is applied, the lead supervisory authority shall submit a draft decision pursuant to Article 60(3) of Regulation (EU) 2016/679 no later than 12 months after the lead supervisory authority has confirmed its competence pursuant to Article 3, paragraph 4a of this Regulation or after a binding decision by the Board pursuant to Article 65, paragraph 1, point b), of Regulation (EU) 2016/679.*

*Where national law provides for prior or subsequent domestic proceedings which necessitate that a draft decision pursuant to Article 60(3) of Regulation (EU) 2016/679 be submitted after the time limit referred to in the first subparagraph has expired, the lead supervisory authority may extend that time limit for a maximum period of 2 months. In such a case, the lead supervisory authority shall inform the supervisory authorities concerned thereof and set out the duration of the extension, at least two weeks before the expiry of the time limit referred to in the first subparagraph.*

*Article 10b*

*Subsequent domestic proceedings*

1. *Where national law requires subsequent domestic proceedings related to the same case to be opened after the adoption of a decision pursuant to Articles 13 or 16, the lead supervisory authority shall:*
  - (a) *not draft a new summary of key issues,*
  - (b) *repeat the procedural steps pursuant to Article 11 or Articles 14 and 15 only where its factual or legal assessment differs from the preceding decision adopted pursuant to Articles 13 or 16, and*
  - (c) *submit a draft decision before adopting any subsequent decision that is different from the preceding decision pursuant to Articles 13 or 16.*
2. *The time limits pursuant to Article 10a shall apply to submitting a draft decision in any subsequent proceedings referred to in paragraph 1.*

**SECTION 1B**  
**APPLICATION OF TIME LIMITS**

**Article 10c**

***Legality and validity of procedural steps and the final decision***

***Where this Regulation or Article 65(6) of Regulation (EU) 2016/679 requires that a supervisory authority take a procedural step within a specified time limit, taking such a step after the expiry of the time limit shall not affect the legality or validity of that procedural step or of the final decision.***

**Article 10d**

***Time limits and the right to an effective judicial remedy***

***In determining whether a supervisory authority has not handled a complaint pursuant to Article 78(2) of Regulation (EU) 2016/679, consideration shall be given to whether a supervisory authority, within the time limit provided for in this Regulation or in Article 65(6) of Regulation (EU) 2016/679, including any possible extensions of such a time limit, has not:***

- ***submitted a draft decision or revised draft decision, or;***
- ***adopted a final decision.***

**SECTION 2**  
**FULL OR PARTIAL REJECTION OF COMPLAINTS**

*Article 11*

**Hearing of complainant prior to Procedure for full or partial rejection or dismissal of a complaint within the meaning of Article 60(8) and Article 60(9) of Regulation EU 2016/679**

1. Following the procedure provided for in ~~Article 9 and 10~~, *Where* the lead supervisory authority *intends to fully or partially reject or dismiss a complaint, it shall, prior to submitting a draft decision pursuant to Article 60(3) of Regulation (EU) 2016/679,* provide the supervisory authority with which the complaint ~~was~~ *has been* lodged with the reasons for its preliminary view that the complaint should be fully or partially rejected *or dismissed*.

*The supervisory authority with which the complaint has been lodged shall inform the complainant of the reasons for the preliminary view referred to in the first subparagraph, provide the complainant with the possibility to make her or his views known and inform the complainant of the consequences of not making his or her views known.*

*The complainant shall have an opportunity to make his or her views known in writing within an appropriate time-limit set by the lead supervisory authority no shorter than three weeks and no longer than six weeks.*

2. The supervisory authority with which the complaint ~~was~~ *has been* lodged shall ~~inform~~ *transmit any views made known by* the complainant ~~of the reasons for the intended full or partial rejection of the complaint and set a time limit within which the complainant may make known her or his views in writing. The time limit shall be no less than three weeks. The~~ *to the lead* supervisory authority with which the complaint was lodged shall inform the complainant of the consequences of the failure to make her or his views known, *as soon as they become available and in any case no later than one week from when they become available.*

3. ~~If *Where the views made known by* the complainant fails to make known her or his views within the time limit set by *in accordance with paragraph 1* do not lead to a change of the preliminary view referred to in the first subparagraph of paragraph 1, the lead supervisory authority, in cooperation with the supervisory authority with which the complaint was *has been* lodged, the complaint shall be deemed to have been withdrawn prepare a draft decision and submit it to the supervisory authorities concerned, in accordance with Article 60(3) of Regulation (EU) 2016/679.~~
4. ~~The complainant may request access to the non-confidential version of the documents on which the proposed rejection of the complaint is based.~~
5. ~~If the complainant makes known her or his views within the time limit set by the supervisory authority with which the complaint was lodged and the views do not lead to a change in the preliminary view that the complaint should be fully or partially rejected, the supervisory authority with which the complaint was lodged shall prepare the draft decision under Article 60(3) of Regulation (EU) 2016/679 which shall be submitted to the other supervisory authorities concerned by the lead supervisory authority pursuant to Article 60(3) of Regulation (EU) 2016/679.~~
6. ***When the draft decision submitted pursuant to paragraph 3 concludes that the complaint should be partially rejected, the lead supervisory authority shall continue its investigation in cooperation with the supervisory authorities concerned on the part of the complaint which remains to be investigated.***

## Article 12

### Revised draft decision fully or partially rejecting *or dismissing* a complaint

1. Where the lead supervisory authority ~~considers~~ *assesses* that the revised draft decision within the meaning of Article 60(5) of Regulation (EU) 2016/679, **fully or partially rejecting or dismissing a complaint**, raises *new* elements on which the complainant should have the opportunity to make her or his views known, the supervisory authority with which the complaint ~~was~~ **has been** lodged shall, prior to the submission of the revised draft decision under Article 60(5) of Regulation (EU) 2016/679, provide the complainant with the possibility to make her or his views known on such new elements **in accordance with the procedure under Article 11 of this Regulation**.
2. The supervisory authority with which the complaint was lodged shall set a time limit ~~within which the complainant may make known her or his views.~~

## Article 13

### Decision fully or partially rejecting *or dismissing* a complaint

When adopting a decision **dismissing or** fully or partially rejecting a complaint in accordance with ~~Article 60(8)~~ **Articles 60(8) or 60(9)** of Regulation (EU) 2016/679, the supervisory authority with which the complaint was lodged shall inform the complainant of the judicial remedy available to him or her in accordance with Article 78 of Regulation (EU) 2016/679.

### SECTION 3

## DECISIONS ADDRESSED TO ~~CONTROLLERS AND PROCESSORS~~ PARTIES UNDER INVESTIGATION

### Article 14

#### Preliminary findings and ~~reply~~ *the right to be heard*

1. ***Following the consultations and procedures under Articles 9 and 10 of this Regulation,*** when the lead supervisory authority intends to submit a draft decision within the meaning of Article 60(3) of Regulation (EU) 2016/679 to the other supervisory authorities concerned finding an infringement of Regulation (EU) 2016/679, it shall draft preliminary findings.
2. The preliminary findings shall ***include the findings of the investigation and*** present allegations raised in an exhaustive and sufficiently clear way to enable the parties under investigation to take cognisance of the conduct investigated by the lead supervisory authority. In particular, they ~~must~~ ***shall*** set out clearly all the facts, ***including listing the evidence relied upon,*** and the entire legal assessment raised against the parties under investigation, so that they can express their views on the facts and the legal conclusions the lead supervisory authority intends to draw in the draft decision within the meaning of Article 60(3) of Regulation (EU) 2016/679, and list all the evidence it relies upon.

The preliminary findings shall indicate, ***based on the information available at that stage and without prejudice to the views of the parties,*** ~~intends to use~~ ***considers using.***

Where the lead supervisory authority ~~intends to impose a fine, it shall list in the preliminary findings the relevant elements on which it relies while calculating the~~, ***based on the information available at that stage and without prejudice to the views of the parties, considers imposing an administrative fine.*** ~~In particular~~ ***in accordance with Article 83 of Regulation (EU) 2016/679***, the lead supervisory authority shall list ***in the preliminary findings the main legal and factual elements***, ~~the essential facts and matters of law which may result in the imposition~~ ***are known to it, and on which it intends to rely in deciding whether to impose an administrative fine and in deciding on the amount of the fine, having regard to*** ~~and the elements listed in Article 83(2) of Regulation (EU) 2016/679, including any aggravating or mitigating factors it will take into account.~~

- 2a. ***The preliminary findings shall be transmitted to the supervisory authorities concerned, which may provide comments to the lead supervisory authorities within four weeks. Upon request of one of the supervisory authorities concerned, the period shall be extended by another two weeks.***
3. The lead supervisory authority shall notify preliminary findings, ***where relevant amended to take into account comments received by the supervisory authorities concerned***, to each of the parties under investigation.
4. The lead supervisory authority shall, when notifying the preliminary findings to the parties under investigation, set a ***an appropriate time-limit no shorter than three weeks and no longer than six weeks from the date of notification***, within which ~~these~~ ***those*** parties may provide their views in writing, ***or*** the lead supervisory authority shall ~~not be obliged to take into account written views received after the expiry of that~~ ***hold a hearing within the same time-limit in order to hear the views of the parties orally.***
5. When notifying the preliminary findings to the parties under investigation, the lead supervisory authority shall provide those parties with access to the administrative file in accordance with Article ~~2019~~ ***and 21.***

6. The parties under investigation may, in their ~~written~~ reply to preliminary findings, set out all facts and legal arguments known to them which are relevant to their defence against the allegations of the lead supervisory authority. They shall attach any relevant documents as proof of the facts set out. The lead supervisory authority shall, in its draft decision, deal only with allegations, including the facts and the legal assessment based on those facts, in respect of which the parties under investigation have been given the opportunity to comment.

#### *Article 15*

#### **Transmission of preliminary findings to complainants**

1. Where the lead supervisory authority issues preliminary findings relating to a matter in respect of which it has received a complaint, the supervisory authority with which the complaint was ~~was~~ ***has been*** lodged shall provide the complainant with a ~~non-confidential version of the~~ ***those*** preliminary findings, ***in accordance with rules on access to the administrative file and on confidential information under Articles 19 and 21***, and set a ***an appropriate*** time-limit ***no shorter than three weeks and no longer than six weeks***, within which the complainant may make known ~~its~~ ***his or her*** views in writing.
- 1a. For the purpose of paragraph 1, administrative modalities and requirement under the national procedural law of the supervisory authority with which the complaint was lodged shall continue to apply.***
2. Paragraph 1 shall ***also*** apply ~~also when a~~ ***where the lead*** supervisory authority, ~~where appropriate, treats several~~ ***handles a complaint jointly with other*** complaints jointly, ~~splits the complaints in several parts or in any other way exercises its discretion concerning~~ ***or where it handles a part of a complaint separately. It shall also apply where the lead supervisory authority has modified*** the scope of the investigation as set out in preliminary findings ***in any other way, including following a binding decision of the Board pursuant to Article 10(6).***

3. ~~Where the lead supervisory authority considers that it is necessary for the complainant to be provided with documents included in the administrative file in order for the complainant to effectively make known her or his views on the preliminary findings, the supervisory authority with which the complaint was lodged shall provide the complainant with the non-confidential version of such documents when providing the preliminary findings pursuant to paragraph 1.~~
4. ~~The complainant shall be provided with the non-confidential version of the preliminary findings only for the purpose of the concrete investigation in which the preliminary findings were issued.~~
5. ~~Before receiving the non-confidential version of preliminary findings and any documents provided pursuant to paragraph 3, the complainant shall send to the lead supervisory authority a confidentiality declaration, where the complainant commits himself or herself not to disclose any information or assessment made in the non-confidential version of preliminary findings or to use those findings for purposes other than the concrete investigation in which those findings were issued.~~

#### *Article 16*

#### **Adoption of final decision**

1. After submitting the draft decision to supervisory authorities concerned pursuant to Article 60(3) of Regulation (EU) 2016/679 and where none of the supervisory authorities concerned has objected *object* to the draft decision within the periods referred to in Article 60(4) ~~and~~ *or* (5) of Regulation (EU) 2016/679 *as applicable*, the lead supervisory authority shall adopt and notify its decision under, *within one month from the end of the period referred to in* Article ~~60(7)60(4) or (5)~~ of Regulation (EU) 2016/679 ~~to the main establishment or single establishment of the controller or processor, as the case may be, and inform the supervisory authorities concerned and the Board of the decision in question, including a summary of the relevant facts and grounds.:~~

- (a) *adopt its decision referred to in Article 60(7) or, where applicable Article 60(9), of Regulation (EU) 2016/679; and*
- (b) *notify that decision to the main establishment or single establishment of the controller or processor, as the case may be.*

2. *The information to be provided to the complainant pursuant to Article 60(7) and Article 60(9) of Regulation (EU) 2016/679 shall consist of a version of the decision adopted that includes its operative part in full and the grounds that do not include elements considered confidential in accordance with Article 21 of this Regulation, or a summary of the decision, including the relevant facts and grounds. In any case, the complainant shall, upon request, be provided with a version of that decision that includes its operative part in full and the grounds that do not include elements considered confidential in accordance with Article 21 of this Regulation. Administrative modalities and requirements under the national procedural law of the lead supervisory authority shall continue to apply.*

#### *Article 17*

##### **Right to be heard in relation to revised draft decision *finding an infringement***

1. Where the lead supervisory authority considers that the revised draft decision within the meaning of Article 60(5) of Regulation (EU) 2016/679, ***finding an infringement of Regulation (EU) 2016/679***, raises *new* elements on which the parties under investigation should have the opportunity to make their views known, the lead supervisory authority shall, prior to the submission of the revised draft decision under Article 60(5) of Regulation (EU) 2016/679, provide the parties under investigation with the possibility to make their views known on such new elements.

2. The lead supervisory authority shall set a *an appropriate* time-limit *no shorter than three weeks and no longer than six weeks* within which the parties under investigation may make known their views.
- 2a. *The lead supervisory authority shall inform the supervisory authorities concerned of the views made known by the parties under investigations, as soon as they become available and in any case no later than one week from when they become available.*

## SECTION 4

### RELEVANT AND REASONED OBJECTIONS

#### *Article 18*

#### **Relevant and reasoned objections**

1. Relevant and reasoned objections within the meaning of Article 4(24) of Regulation (EU) 2016/679 shall:
- (a) be based ~~exclusively~~ on factual *and legal* elements included in the draft decision *or in the cooperation file*; ~~and~~
  - (b) not ~~change~~ *concern* the scope of the allegations by raising points amounting to ~~identification of additional allegations of infringement of Regulation (EU) 2016/679 or changing the intrinsic nature~~ *an investigation in cases where none of the supervisory authorities provided comments under Article 9(3) or in cases where consensus has been reached following comments received, or the scope of an investigation as defined in the binding decision* of the allegations raised. ~~Board adopted under Article 10(6),~~
  - (ba) *not concern a draft decision adopted in accordance with the conditions pursuant to Article 5 of this Regulation.*

2. *Notwithstanding point (b) of paragraph 1, a supervisory authority concerned may provide relevant and reasoned objections that concern the scope of an investigation as referred to in point (b) of paragraph 1, provided that, in duly justified cases:*
- *the lead supervisory authority has failed to investigate all the elements of the summary of key issues agreed pursuant to Article 10(1a) or 10(3), or has failed to comply with the binding decision of the Board under Article 10 (6). or,*
  - *additional new elements not available at the time of agreeing on the summary of key issues pursuant to Article 10(1a) or 10(3), or at the time of the binding decision of the Board under Article 10 (6), demonstrate a significant risk posed by the draft decision as regards the fundamental rights and freedom of the data subject and, where applicable, the free flow of personal data within the Union; or both*
2. ~~The form and structure of A relevant and reasoned objections~~ *objection shall meet all be worded in sufficiently clear, coherent and precise terms and, where necessary, identify the elements of the following requirements: draft decision that should be changed], in order to enable supervisory authorities, to prepare their positions and, as the case may be, to enable the Board to efficiently resolve the dispute*
- (a) ~~the length of each relevant and reasoned objection and the position of the lead supervisory authority on any such objection shall not exceed three pages and shall not include annexes. In cases involving particularly complex legal issues, the maximum length may be increased to six pages, except if specific circumstances justifying a longer length are accepted by the Board;~~
  - (b) ~~the disagreement of the supervisory authority concerned with the draft decision shall be stated at the beginning of the relevant and reasoned objection and shall be worded in sufficiently clear, coherent and precise terms to enable the lead supervisory authority, and as the case may be, supervisory authorities concerned, to prepare their positions and to enable the Board to efficiently resolve the dispute;~~

- (e) legal arguments shall be set out and grouped by reference to the operative part of the draft decision to which they relate. Each argument or group of arguments shall generally be preceded by a summary statement.

## Chapter IV

### ~~Access to the Administrative file, cooperation~~ file and treatment of confidential information

#### *Article 19*

#### ~~Content of the Administrative file~~

1. The administrative file in an investigation concerning an alleged infringement of Regulation (EU) 2016/679 consists of ~~all~~ ***the*** documents which have been obtained, ***or*** produced ~~and/or~~ ***by the concerned supervisory authorities and the lead supervisory authority, and*** assembled by the lead supervisory authority during the investigation ***procedure, including all inculpatory and exculpatory evidence.***

***The administrative file shall not include internal communications within a supervisory authority.***

2. ~~In the course of~~ *Upon request of a party under* investigation of an alleged infringement of Regulation (EU) 2016/679, *or a complainant where the decision is liable to affect his or her interests adversely*, the lead supervisory authority ~~may return~~ *shall grant access* to the party from which they have been obtained documents which following a more detailed examination ~~prove to be unrelated~~ *administrative file* to the subject matter of the *parties under* investigation. Upon return, these documents, *or the complainant, enabling them to exercise their right to be heard. This shall no longer constitute part of* ~~be without prejudice to more favourable rules on granting access to~~ the administrative file *under the lead supervisory authority's national law.*

*Where access is granted by the lead supervisory authority, the party under investigation shall be provided with such access by the lead supervisory authority, while the complainant shall be provided with such access by the supervisory authority with which the complaint has been lodged.*

3. ~~The right of access to the administrative file shall not extend to correspondence and exchange of views between the lead supervisory authority and supervisory authorities concerned. The information exchanged between the supervisory authorities for the purpose of the investigation of an individual case are internal~~ *following* documents and *or their parts* shall not be accessible to the parties *be excluded from access, notwithstanding whether access is granted* under investigation or the complainant. *Union or national law:*
- (a) correspondence or deliberations between the supervisory authorities;*
  - (b) confidential information pursuant to Article 21(1) of this Regulation.*
4. Access to relevant and reasoned objections pursuant to Article 60(4) of Regulation (EU) 2016/679 *on the basis to which the lead supervisory authority intends to adopt a revised draft decision* shall *only* be provided ~~in accordance with Article 24~~ *by the lead supervisory authority where necessary to enable the parties under investigation or the complainant to express their views and defend their rights.*

## Article 20

### ~~Access to the administrative file and use of documents~~

- ~~1. The lead supervisory authority shall grant access to the administrative file to the parties under investigation, enabling them to exercise their right to be heard. Access to the administrative file shall be granted after the lead supervisory authority notifies the preliminary findings to the parties under investigation.~~
- ~~2. The administrative file shall include all documents, inculpatory and exculpatory, including facts and documents which are known to the parties under investigation.~~
- ~~3. The conclusions of the lead supervisory authority in the draft decision under Article 60(3) of Regulation (EU) 2016/679 and the final decision under Article 60(7) of Regulation (EU) 2016/679 may only rely on documents cited in the preliminary findings or on which the parties under investigation had the opportunity to make their views known.~~
- ~~4. Documents obtained through access to the administrative file pursuant to this Article shall be used only for the purposes of judicial or administrative proceedings for the application of Regulation (EU) 2016/679 in the specific case for which such documents were provided.~~

## Article 21

### Identification and protection of confidential information

- ~~1. Unless otherwise provided in this Regulation, **Any** information collected or obtained by a supervisory authority in cross-border cases under of Regulation (EU) 2016/679, including any document containing such information, **and documents or parts of documents** shall not be communicated or made accessible by the supervisory authority **be considered confidential** in so far as it contains business **they contain trade** secrets **as defined in Directive (EU) 2016/943** or other confidential information of any person **in accordance with Union or national law.**~~

2. ~~Any~~ ***Unless otherwise provided by Union law or national law***, information collected, ***produced*** or obtained by a supervisory authority in cross-border cases under Regulation (EU) 2016/679, ~~including any document containing such information, is excluded from access requests~~ ***which is considered confidential pursuant to paragraph 1, shall not be communicated or made accessible to a party*** under ~~laws on public access to official documents as long as the proceedings are ongoing~~ ***investigation, a complainant or any third party***.
3. ~~When communicating preliminary findings to parties under investigation and providing for access to the administrative file on the basis of Article 20, the lead supervisory authority shall ensure that the parties under investigation to whom access is being given to information containing business secrets or other confidential information treat such information with utmost respect for its confidentiality and that such information is not used to the detriment of the provider of the information. Depending on the degree of confidentiality of the information, the lead supervisory authority shall adopt appropriate arrangements to give full effect to the rights of defence of the parties under investigation with due regard for the confidentiality of the information.~~
4. ~~An entity~~ ***A party under investigation, a complainant, or a third party*** submitting information that it considers to be confidential shall clearly identify the information which it considers to be confidential, giving reasons for the confidentiality claimed. The ~~entity~~ ***party under investigation, complainant, or third party*** shall ***always provide the full version of the information. Where possible, it shall also provide a separate proposed*** non-confidential version ~~of the submission~~.
5. Without prejudice to paragraph 4, the ~~lead supervisory authority~~ ***to which the information is submitted*** may require the parties under investigation, or any other party which produces documents pursuant to Regulation (EU) 2016/679, to identify the documents or parts of documents which they consider to contain ***business trade*** secrets or other confidential information belonging to them and to identify the parties for which these documents are considered to be confidential.

6. The ~~lead~~ supervisory authority ~~may set a~~ ***to which the information is submitted shall set an appropriate*** time-limit ***no longer than six weeks*** for parties under investigation and any other party raising a confidentiality claim to:
- (a) substantiate their claims for ~~business~~ ***trade*** secrets and other confidential information for each individual document or part of document, statement, or part of statement;
  - (b) provide, ***where possible, a proposed*** a non-confidential version of the documents and statements, in which the ~~business~~ ***trade*** secrets and other confidential information are redacted;
  - (c) provide a concise, non-confidential, description of each piece of redacted information.
7. If the parties under investigation or any other party fails to comply with paragraphs ~~4 and 5, the lead~~ ***5 and 6, the*** supervisory authority ***to which the information is submitted*** may assume that the documents or statements concerned do not contain ~~business~~ ***trade*** secrets or other confidential information.
- 7a. ***The authority to which the information is submitted shall determine whether or not the information or relevant and specific parts of documents are confidential, in accordance with paragraph 1, ensuring that the redaction of documents is limited to the extent necessary and proportionate to protect the confidential information. It shall inform the other supervisory authorities about the confidential nature of the information when transmitted.***
- 7b. ***Information exchanged between supervisory authorities in the application of Regulation (EU) 2016/679, where it is regarded as confidential information under the national law of the supervisory authority to which the information is submitted, shall remain treated as confidential by the supervisory authority receiving it.***

*Article 21a*  
*Cooperation file*

1. *For the purpose of relevant information to be exchanged between the lead supervisory authority and supervisory authorities concerned in accordance with Article 8, the lead supervisory authority shall ensure such relevant information is available through a cooperation file dedicated to each complaint or investigation related to cross-border processing. The cooperation file shall be maintained in electronic form and shall, by means of a common electronic tool, be remotely accessible to supervisory authorities and, upon submission of a matter to dispute resolution under Article 65(1)(a) of Regulation (EU) 2016/679, and, where applicable, when an urgent opinion or an urgent binding decision is requested pursuant to Article 66 of Regulation (EU) 2016/679, to the Board. It shall not be directly accessible to parties under investigation, complainants or third parties.*
2. *The cooperation file shall include all information exchanged pursuant to Article 8 of this Regulation.*

**Chapter V**  
**Dispute resolution**

*Article 22*

**Referral to dispute resolution under Article 65, paragraph 1(a), of Regulation (EU) 2016/679**

- ~~1. If the lead supervisory authority does not follow the relevant and reasoned objections or is of the opinion that the objections are not relevant or reasoned, it shall submit the subject-matter to the dispute resolution mechanism set out in Article 65 of Regulation (EU) 2016/679.~~

- 1a. Within three months after the expiry of the period set out by Article 60(4) of Regulation (EU) 2016/679, the lead supervisory authority shall either submit a revised draft pursuant to Article 60 (5) of Regulation (EU) 2016/679 to the other supervisory authorities concerned or refer the subject-matter to the Board for dispute resolution under Article 65 (1) (a) of Regulation (EU) 2016/679.**
- 1b. Within three months after the expiry of the period set out by Article 60(5) of Regulation 2016/679, the lead supervisory authority shall either submit another revised draft decision under 60 (5) of Regulation (EU) 2016/679 or refer the subject-matter to the Board for dispute resolution under Article 65 (1) (a) of Regulation (EU) 2016/679.**
2. When referring the subject-matter to dispute resolution **under Article 65, paragraph 1(a) of Regulation (EU) 2016/679**, the lead supervisory authority shall provide the Board with all of the following ~~documents~~:
- (a) the draft decision or revised draft decision subject to the relevant and reasoned objections;
  - (b) a summary of the relevant facts;
  - (c) ~~the preliminary findings;~~
  - (d) ~~view~~**views** made in writing by the parties under investigation, as the case may be, pursuant to Articles 14 and 17 **at least to the extent they relate to the subject matter submitted to the Board;**
  - (e) views made in writing by complainants, as the case may be, pursuant to Articles 11, 12, and 15 **at least to the extent they relate to the subject matter submitted to the Board;**
  - (f) the relevant and reasoned objections which were not followed by the lead supervisory authority; **and the objections that the lead supervisory authority has rejected as being not relevant or reasoned**

(g) the reasons on the basis of which the lead supervisory authority did not follow the relevant and reasoned objections or ~~considered~~**rejected** the objections *as* not to be relevant or reasoned.

**2a. The Board may request further documents from a supervisory authority with respect to the subject matter submitted to the Board.**

3. The Board shall, within four weeks of ~~receiving~~**being provided with** the documents listed ~~in~~**pursuant to** paragraph 2 ~~identify retained~~, **make a preliminary determination of whether the objections referred to in Article 65(1)(a) are relevant and reasoned objections as defined in Article 4(24) of Regulation (EU) 2016/679 and whether they comply with Article 18 of this Regulation. Within the same period, the Chair of the Board shall register the referral of the subject matter submitted to it. As soon as the file is registered, it shall be provided to the members of the Board.**

**3a. The period for adoption of the binding decision of the Board provided for in Article 65(2) of Regulation (EU) 2016/679 shall not run during the period provided for in paragraph 3.**

#### *Article 23*

### **Registration in relation to a decision under Article 65(1), point (a), of Regulation (EU) 2016/679**

~~The Chair of the Board shall register the referral of a subject matter to dispute resolution under Article 65(1), point (a), of Regulation (EU) 2016/679 no later than one week after having received all of the following documents:~~

- ~~(a) the draft decision or revised draft decision subject to the relevant and reasoned objections;~~
- ~~(b) a summary of the relevant facts;~~

- (c) ~~view made in writing by the parties under investigation, as the case may be, pursuant to Articles 14 and 17;~~
- (d) ~~views made in writing by complainants, as the case may be, pursuant to Articles 11, 12 and 15;~~
- (e) ~~the retained relevant and reasoned objections;~~
- (f) ~~the reasons on the basis of which the lead supervisory authority did not follow the retained relevant and reasoned objections.~~

#### *Article 24*

#### **Statement of reasons *Hearing the party under investigation and the complainant prior to adoption of decision under Article 65(1), point (a), of Regulation (EU) 2016/679***

1. ~~Prior to adopting the binding decision pursuant to Article 65(1), point (a), of Regulation (EU) 2016/679, the Chair of the Board shall, through the lead supervisory authority, provide the parties under investigation and/or, in the case of full or partial rejection of a complaint, the complainant, with a statement of reasons explaining the reasoning the Board intends to adopt in its decision. Where the Board intends to adopt a binding decision requiring the lead supervisory authority to amend its draft decision or revised draft decision, the Board shall decide whether such statement of reasons should be accompanied by the retained relevant and reasoned objections on the basis of which the Board intends to adopt its decision.~~ ***Prior to adopting the binding decision pursuant to Article 65(1), point (a), of Regulation (EU) 2016/679, the Board shall provide the party under investigation, or, in case where the Board decision could result in the rejection of a complaint, the complainant, with the opportunity to make their views known in writing on any new factual or legal elements on which its decision is to be based, including on the relevant and reasoned objections which it intends to follow in its decision.***

2. ~~The parties under investigation and/or, in the case of full or partial rejection of a complaint, the complainant, shall have one week from receipt of the statement of reasons referred to in paragraph 1 to make their views known.~~ ***Where parties under investigations or the complainant, as applicable, are provided with an opportunity to make their views known in accordance with paragraph 1, the Board shall set an appropriate time limit not longer than 2 weeks.***
3. ~~The deadline in paragraph 2 shall be extended by one week where the Board extends The period for adoption of the binding decision in accordance with Article 65(2) of Regulation (EU) 2016/679.~~ ***The period for adoption of the binding decision of the Board provided for in Article 65(2) of Regulation (EU) 2016/679 shall be suspended until the parties under investigation or the complainant, as applicable, have made their views known or until the expiry of the time limit referred to in paragraph 2 of this Article, whichever is earlier.***
4. ~~The period for adoption of the binding decision of the Board provided for in Article 65(2) of Regulation (EU) 2016/679 shall not run during the periods provided for in paragraphs 2 and 3.~~

#### *Article 25*

#### **Procedure in relation to decision under Article 65(1), point (b), of Regulation (EU) 2016/679**

1. When referring a subject-matter to the Board under Article 65(1), point (b), of Regulation 2016/679, the supervisory authority referring the subject-matter regarding the competence for the main establishment shall provide the Board with all of the following documents:
  - (a) a summary of the relevant facts, ***including regarding the processing at stake;***
  - (b) the assessment of these facts as far as the conditions of Article 56(1) of Regulation (EU) 2016/679 are concerned, ***in particular the assessment as to whether the processing is to be considered as a cross-border processing and as to where the main establishment of the controller or processor is located;***
  - (c) views made by the controller or processor whose main establishment is the subject of the referral;

- (d) the views of other supervisory authorities concerned by the referral;
- (e) any other document or information the referring supervisory authority considers relevant and necessary in order to find a resolution on the subject-matter.

- 1a. *The Board may request further documents from a supervisory authority with respect to the subject matter submitted to the Board.***
- 2. ~~the Chair of the Board shall register the referral no later than one week after having received the documents referred to in paragraph 1.~~ ***Within one week of being provided with the documents pursuant to paragraph 2., the Chair of the Board shall register the referral of the subject matter submitted to it. As soon as the file is registered, it shall be provided to the members of the Board.***

*Article 26*

**Procedure in relation to decision under Article 65(1), point (c), of Regulation (EU) 2016/679**

- 1. When referring a subject-matter to the Board under Article 65(1), point (c), of Regulation 2016/679, the supervisory authority referring the subject-matter or the Commission shall provide the Board with all of the following documents:
  - (a) a summary of the relevant facts;
  - (b) the opinion, as the case may be, issued by the Board pursuant to Article 64 of Regulation (EU) 2016/679;
- (ba) the decision, as the case may be, adopted by the competent supervisory authority following the opinion issued by the Board pursuant to Article 64 of Regulation (EU) 2016/679***

- (c) the views of the supervisory authority referring the subject-matter or the Commission as to whether, as the case may be, a supervisory authority was required to communicate the draft decision to the Board pursuant to Article 64(1) of Regulation (EU) 2016/679, or a supervisory authority did not follow an opinion of the Board issued pursuant to Article 64 of Regulation (EU) 2016/679, ***including an indication of which points were not followed and a reference to the relevant part of the adopted decision.***

2. ~~The Chair of~~ The Board shall request the following documents:

- (a) the views of the supervisory authority alleged to have breached the requirement to communicate a draft decision to the Board or to have failed to follow an opinion of the Board;
- (b) any other document or information the supervisory authority considers relevant and necessary in order to find a resolution on the subject-matter.

If any supervisory authority declares a need to submit its views on the referred subject-matter, it shall submit those views within two weeks of the referral referred to in paragraph 1.

***2a. The Board may request further documents from a supervisory authority with respect to the subject matter submitted to the Board.***

3. ~~the Chair of the Board shall register the referral no later than one week after having received the documents referred to in paragraphs 1 and 2.~~ ***Within one week of being provided with the documents pursuant to paragraph 2, the Chair of the Board shall register the referral of the subject matter submitted to it. As soon as the file is registered, it shall be provided to the members of the Board.***

## Chapter VI

### Urgency procedure

#### Article 27

#### **Urgent ~~opinions~~ opinion under Article 66(2) of Regulation (EU) 2016/679**

1. A request for an urgent opinion of the Board pursuant to Article 66(2) of Regulation (EU) 2016/679 shall be made no later than ~~three~~ **four** weeks prior to the expiry of provisional measures adopted under Article 66(1) of Regulation (EU) 2016/679 and shall contain all of the following items:
  - (a) a summary of the relevant facts, ***including an allegation of an infringement of Regulation EU 2016/679;***
  - (b) a description of the provisional measure adopted on ~~its own~~ ***the territory of the Member State of the supervisory authority requesting the opinion***, its duration and the reasons for adopting it, including the justification of the urgent need to act in order to protect the rights and freedoms of data subjects;
  - (c) a justification of the urgent need for final measures to be adopted ~~on the territory of the Member State of the requesting supervisory authority~~, including an explanation of the exceptional nature of circumstances requiring the adoption of the measures concerned.
- 1a. The Board may request further documents from a supervisory authority with respect to the subject matter submitted to the Board.***
- 1b. Within one week of being provided with the documents pursuant to paragraph 1, the Chair of the Board shall register the referral of the subject matter submitted to it. As soon as the file is registered, it shall be provided to the members of the Board.***

2. The urgent opinion of the Board shall be addressed to the supervisory authority that submitted the request. It shall be similar to an opinion within the meaning of Article 64(1) of Regulation (EU) 2016/679 and enable the requesting authority to maintain or amend its provisional measure in line with the obligations of Article 64(7) of Regulation (EU) 2016/679.

*Article 28*

**Urgent decisions *binding decision* under Article 66(2) of Regulation (EU) 2016/679**

1. A request for an urgent ***binding*** decision of the Board pursuant to Article 66(2) of Regulation (EU) 2016/679 shall be made no later than ~~three~~ **four** weeks prior to the expiry of provisional measures adopted under Articles 61(8), 62(7) or 66(1) of Regulation (EU) 2016/679. That request shall contain all of the following items:
- (a) a summary of the relevant facts, ***including allegation of an infringement of Regulation EU 2016/679***;
  - (b) the provisional measure adopted on the territory of the Member State of the supervisory authority requesting the decision, its duration and the reasons for adopting the provisional measures, in particular the justification of the urgent need to act in order to protect the rights and freedoms of data subjects;
  - (c) information on any investigatory measures taken on its own territory and replies received from ~~the local establishment of~~ the parties under investigation or any other information in the possession of the requesting supervisory authority;
  - (d) a justification of the urgent need for final measures to be adopted ~~on the territory of the requesting supervisory authority~~, bearing in mind the exceptional nature of circumstances requiring the adoption of the final measure, or proof that a supervisory authority failed to ~~respond to a request under~~ ***comply with*** Article ~~61(3)~~ **61(5)** or 62(2) of Regulation (EU) 2016/679;

- (e) where the requesting authority is not the lead supervisory authority, the views of the lead supervisory authority;
- (f) where applicable, the views of the local establishment of the parties under investigation ~~against~~ **to** which **the** provisional measures were ~~taken~~ **addressed** pursuant to Article 66(1) of Regulation (EU) 2016/679.

**1a. The Board may request further documents from a supervisory authority with respect to the subject matter submitted to the Board.**

**1b Within one week of being provided with the documents pursuant to paragraph 1, the Chair of the Board shall register the referral of the subject matter submitted to it. As soon as the file is registered, it shall be provided to the members of the Board.**

- 2. ~~The urgent decision referred to in paragraph 1 shall be addressed to the supervisory authority that submitted the request and shall enable the requesting authority to maintain or amend its provisional measure.~~
- 3. Where the Board adopts an urgent binding decision indicating that final measures should be adopted, the supervisory authority to which the decision is addressed shall adopt such measures prior to the expiry of the provisional measures adopted under Article 66(1) of Regulation (EU) 2016/679.
- 4. ~~The supervisory authority that submitted the request referred to in paragraph 1 shall notify its decision on the final measures to the establishment of the controller or processor on the territory of its Member State and inform the Board. Where the lead supervisory authority is not the requesting authority, the requesting authority shall inform the lead supervisory authority of the final measure.~~
- 5. Where the urgent binding decision indicates that final measures do not urgently need to be adopted, the lead and supervisory authorities concerned shall follow the procedure in Article 60 of Regulation (EU) 2016/679.

*Article 28a*

*Urgent opinion or urgent binding decision under Article 66(3) of Regulation (EU) 2016/679*

1. *A request for an urgent opinion or an urgent binding decision of the Board pursuant to Article 66(3) of Regulation (EU) 2016/679 shall contain all of the following items:*
  - (a) *a summary of the relevant facts;*
  - (b) *the justification of the urgent need to take appropriate measures in order to protect the rights and freedoms of data subjects, bearing in mind the exceptional circumstances requiring the adoption of such measures, in particular elements which the competent authority should have taken into account in order to protect the rights and freedoms of data subjects;*
  - (c) *where relevant and available, information on any investigatory measures taken by the requesting supervisory authority on its own territory and replies received from the parties under investigation or any other information in the possession of the requesting supervisory authority;*
  - (d) *the views of the competent supervisory authority referred to in Article 66(3) of Regulation (EU) 2016/679.*
2. *The Board may request further documents from a supervisory authority with respect to the subject matter submitted to the Board.*
3. *Within one week of being provided with the documents pursuant to paragraph 1, the Chair of the Board shall register the referral of the subject matter submitted to it. As soon as the file is registered, it shall be provided to the members of the Board.*

## **Chapter VII**

### **General and final provisions**

#### **Article 28b**

##### **Enforcement statistics on cross-border cases**

1. *As part of the annual report to be drawn up under Article 71 of Regulation (EU) 2016/679, the European Data Protection Board shall provide statistics on the enforcement of Regulation (EU) 2016/679 in cases falling under the scope of this Regulation, and in particular:*
  - (a) *the number of complaint-based and ex officio procedures initiated;*
  - (b) *the number of complaint-based and ex officio procedures concluded;*
  - (c) *the number of investigations requested by concerned supervisory authorities pursuant to Article 61(1) of Regulation (EU) 2016/679;*
  - (d) *the number of complaints lodged;*
  - (e) *the number of complaints fully or partially rejected or dismissed;*
  - (f) *the average duration of ex officio and complaint-based procedures concluded;*
  - (g) *the number and amounts of administrative fines imposed pursuant to Article 83 and 84 of Regulation (EU) 2016/679.*
  
2. *Where the statistics referred to in paragraph 1 are not directly available to the Board, the supervisory authorities shall, upon request, provide them to the Board in a timely manner.*

## **Chapter VII**

### **General and final provisions**

#### *Article 29*

#### **Beginning of time periods and definition of working day**

1. Time limits provided for in or fixed by the supervisory authorities pursuant to Regulation (EU) 2016/679 shall be calculated in accordance with Regulation (EEC, Euratom) No 1182/71 of the Council<sup>5</sup>.
2. Time periods shall begin on the working day following the event to which the relevant provision of Regulation (EU) 2016/679 or this Regulation refers.

#### *Article 29a*

#### *Commission report*

*The Commission, as part of its report on the evaluation and review of the Regulation (EU) 2016/679 under Article 97 Regulation (EU) 2016/679, shall also report on the application and functioning of this regulation.*

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<sup>5</sup> Regulation (EEC, Euratom) No 1182/71 of the Council of 3 June 1971 determining the rules applicable to periods, dates and time limits (OJ L 124, 8.6.1971, p. 1).

*Article 30*

**Transitional provisions**

Chapters III and IV shall apply to ~~ex officio~~ *ex officio* investigations opened after **15 months after the date of** the entry into force of this Regulation and to complaint-based investigations where the complaint was lodged after **15 months after the date of** the entry into force of this Regulation.

~~Chapter V~~ **Chapters V and VI** shall apply to all cases submitted to dispute resolution under Article 65 **and urgency procedure under Article 66(2) and (3)** of Regulation (EU) 2016/679 after **15 months after the date of** the entry into force of this Regulation.

*Article 30a*

*Article 31*

**Entry into force and application**

1. This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.
2. This Regulation shall ~~be binding in its entirety and directly applicable in all Member States~~ **apply from 15 months after its date of entry into force.**

***This Regulation shall be binding in its entirety and directly applicable in all Member States.***

Done at Brussels,

*For the European Parliament*  
*The President*

*For the Council*  
*The President*

## Annex

Complaint submitted on the basis of Article 3 <sup>10</sup>
Part A: Mandatory information
1. Identification of person or entity filing the complaint Where the complainant is a natural person, submit a form of identification. <sup>11</sup> Where the complaint is submitted by a body referred to in Article 80 of Regulation (EU) 2016/679, submit proof that the body has been properly constituted in accordance with the law of a Member State. Where the complaint is submitted on the basis of Article 80(1) of Regulation 2016/679, proof that the body lodging the complaint is acting on the basis of the mandate of a data subject.
2. Contact details <sup>12</sup> Where the complaint is submitted electronically, email address. Where the complaint is submitted by post, postal address. Telephone number.
3. Entity whose processing of your personal data infringes Regulation (EU) 2016/679 Provide all information in your possession to facilitate the identification of the entity which is the subject of your complaint.
4. Subject of complaint Please set out the facts from which, in your opinion, there is or was processing of your personal data which infringes Regulation (EU) 2016/679 (the GDPR). Indicate in particular the context in which your personal data were processed.
Part B: Supplementary information
If possible, indicate the provisions of Regulation (EU) 2016/679 (the GDPR) which you consider have been breached by the entity processing your personal data. Please specify whether you have contacted the entity mentioned in point 3 of Part A prior to your complaint and outline the result of any such actions. If possible, please attach any relevant correspondence between you and the entity. Please specify whether you have started other administrative and/or judicial proceedings regarding the subject matter of your complaint. If so, please provide an explanation of the status, and, where relevant, outcome of such actions. Submit all documentation in your possession relating to the facts set out in the complaint (for example, copy of the documents attesting the relationship with the data controller (e.g. invoices, contracts); copy of any marketing

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<sup>10</sup> The complaint should be completed and submitted electronically or completed and submitted to the supervisory authority by post.

<sup>11</sup> For example, passport, driving licence, national ID.

<sup>12</sup> In the case a complaint is submitted by a body referred to in Article 80 of Regulation (EU) 2016/679, all of the information in point 2 should be provided.

messages or e-mails; pictures, photographs or screenshots; expert reports; witness reports; inspection reports).
Part C: Declaration and signature
Please confirm that the information given in this form is given entirely in good faith. Date and signature.

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