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'I/A' ITEM NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
Subject:	Draft REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL laying down additional procedural rules on the enforcement of Regulation (EU) 2016/679 (first reading) - Adoption of the legislative act = Statements

Statement by the Czech Republic

The Czech Republic, which has been actively involved throughout the discussions, welcomes the adoption of the proposal for a Regulation to facilitate the resolution of complaints regarding the cross-border processing of personal data. At the same time, however, it regrets that the European supervisory authorities, which are assuming a number of new responsibilities stemming from European digital legislation, will face further significant administrative burdens, including rigid deadlines for individual tasks and overall administration. These growing demands on the staffing capacity of the supervisory authorities may also have adverse consequences for the proper functioning of the European Data Protection Board.

The Czech Republic is aware of the need to ensure a sufficient level of procedural rights in cross-border proceedings and in domestic proceedings under Regulation 2016/679. In doing so it seeks, in accordance with the principle of procedural autonomy in national proceedings, to ensure the procedural rights of the party under investigation and of the complainant by means of instruments and procedures consistent with national procedural principles and rules.

With regard to the procedural rights granted to the complainant, the Czech Republic sees the complaint under Article 77 of Regulation 2016/679 as a tool for protecting the complainant's subjective rights through the application of corrective measures under Article 58(2) of the same Regulation. The complainant does not therefore have a subjective right to the imposition of a penalty, that is to say, to a corrective measure that cannot affect the complainant's legal rights.

The Czech Republic welcomes the fact that the Regulation respects the primary role played by the active exercise of the rights of a data subject vis -à-vis controllers or processors in the systemic framework for ensuring and enforcing compliance with the requirements of Regulation 2016/679, and considers the active participation of complainants in the process of remedying the situation to be an important precondition for the effective resolution of justified complaints.

Although the Regulation introduces various procedures that are not in use in national law, the Czech Republic is prepared to respect their meaning and purpose. This applies, for example, to the start of the period for bringing an action against a decision by a supervisory authority under Article 21(2), which should not be formally postponed if the grounds for such an action derive from the originally provided information.

Statement by Estonia

Estonia supports the general objective of the initiative to provide smooth and effective functioning of the GDPR's cooperation and dispute resolution mechanisms in cross-border cases.

However, we are concerned that the proposed Regulation may not align with the European Commission's simplification agenda and may lack sufficient legal clarity. We foresee potential challenges in the implementation process, which could complicate proceedings for both complainants, parties under investigation and the supervisory authorities. This may, in turn, lead to an increased administrative burden for all parties involved.