

Brussels, 6 June 2025
(OR. en)

9791/25

**Interinstitutional File:
2023/0202 (COD)**

LIMITE

**DATAPROTECT 107
JAI 737
DIGIT 106
MI 358
FREMP 151
CODEC 745**

NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee
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 - Preparation for the trilogue

I. INTRODUCTION

1. The European Commission presented in July 2023 a proposal for a regulation, with a view to enhance and streamline the cooperation between national data protection authorities (DPAs) when enforcing the General Data Protection Regulation (GDPR) in cross-border cases.

2. The proposal complements the GDPR, in a targeted way, by specifying procedural rules for the cross-border enforcement procedure already established by Chapter VII GDPR, the so-called cooperation and consistency mechanism or “one-stop-shop”. This mechanism requires cooperation between DPAs in ‘cross-border’ cases, where the ‘lead’ DPA (the DPA of the main establishment of the entity under investigation) conducts the investigation, and is required to cooperate with other ‘concerned’ DPAs in other Member States, with a view to reach consensus. The lead DPA must exercise its competence within a framework of close cooperation with DPAs concerned. When there is no consensus in a cross-border case, a dispute resolution mechanism is foreseen within the European Data Protection Board (EDPB), composed of national DPAs, which may adopt a binding decision.
3. While clarifying and codifying certain cooperation mechanism, the Commission proposal does not modify or alter the current enforcement mechanism, but rather complements it. More specifically the proposed regulation includes provisions on the following five main areas:
 - Rules on the submission and handling of complaints
 - Targeted harmonisation of procedural rights in cross border cases, for both parties under investigation and complainants.
 - Cooperation between DPAs in cross-border cases
 - Procedural rules for the dispute resolution procedure between DPAs
 - Rules regarding access to the file and the treatment of confidential information.
4. The Council reached its general approach on a proposal for a Regulation on 13 June 2024
5. The European Parliament adopted its position at first reading during the previous legislature, on 10 April 2024, and the proposal was referred to the Committees on Civil Liberties, Justice and Home Affairs (LIBE) to start interinstitutional negotiations.

6. Negotiations have been initiated under the Hungarian Presidency, with a first trilogue held on 4 November 2024, followed by 7 Interinstitutional Technical Meetings. A second trilogue took place on 12 December 2025, leading to a provisional agreement on rules on information exchange, confidentiality and access to the file, and a dedicated procedure for the early resolution of complaints.
7. Interinstitutional negotiations resumed under the Polish Presidency, with 14 Interinstitutional Technical Meetings held from January to May 2025. Important progresses were made to secure a future provisional agreement in line with the Council general approach, in relation to the admissibility of complaint, the tools and steps for the cooperations between authorities, the procedure related to the exercise of procedures for the parties under investigation and the complainant, and the rules for the dispute resolution and urgency procedures at EDPB level.
8. During this second phase of negotiations, one of the main element and priority of the Council general approach has been further discussed and secured in a possible overall agreement, with the inclusion of provision for the establishment of a simple cooperation procedure, providing more flexibility for national authorities and alleviating the procedural burden the more straight-forward cases.
9. Both the Council general approach and the Parliament mandate also addressed procedural rights for the parties under investigations and the complainant, through the common rules proposed with the Regulation. The provisions discussed at technical level and proposed as part of a provisional agreement have reached a balance in ensuring an effective exercise of procedural rights for both the parties under investigation and the complainant.

II. OUTCOME OF THE THIRD TRILOGUE

10. A third trilogue has been held in the Council on 21 May 2025. During this meeting, most provisions discussed and drafted at the technical level have been provisionally endorsed by the co-legislators.
11. However, this third trilogue did not allow to reach an overall provisional agreement, due to the absence of acceptable compromises on the two main political issues remaining for discussion, namely the time limits for the investigation by the lead DPA and the related judicial remedies for the complainant.
12. Discussions on the time limits for the lead DPA to submit a draft decision in a cross-border case have helped identifying a possible compromise with an initial time limit of 15 months for the enhanced cooperation procedure, extendable to up to 12 months on account of the complexity of a case. For the simple cooperation procedure, the negotiations narrowed down the gap between the two positions, with a total of time limits between 12 and 14 months, including possible extensions.
13. The Presidency considered that, even with a possible extension of 2 months in circumstances beyond the control of the lead DPA, the initial time limit of 10 months for the submission of a draft decision in a simple cooperation procedure could not be acceptable, as it did not reflect the reality of procedural steps and investigation needs in such cases. The Presidency reiterated that time limits must be realistic and allow the DPA to effectively conduct robust investigations and ensure the respect of procedural rights, both in straight forward cases and more complex investigations, which may for example relate to complex processing of personal data undertaken by large online platforms.

14. Discussions on judicial remedies have been the occasion of further exchanges on the scope and purpose of a dedicated provision in this regard. The Presidency reiterated that the initial Parliament's proposal goes beyond and may even interfere with the provision on judicial remedies already provided under the GDPR. Furthermore, the Presidency considered that the provision as originally proposed by the Parliament would open significant new avenues for litigation, which would not benefit the swift and effective enforcement of the GDPR. The Presidency therefore suggested a compromise wording for an article, remaining with the remits of Article 78 GDPR. The Presidency proposal aimed at clarifying that, in determining whether a supervisory authority has not handled a complaint pursuant to Article 78(2) of the GDPR, consideration shall be given as to whether a supervisory authority has met the time limit for the submission of a draft decision or the final decision.
15. The Parliament expressed willingness to consider the Presidency compromise proposal on judicial remedies but requested that reference to transmission of the complaint to the lead supervisory authority is added to the article providing cross-reference to Article 78(2) GDPR. An agreement was very close but not on a package that includes the previous issue on time limits for the investigation by the DPA.
16. In the absence of an overall agreement on the compromises considered for the two remaining political issues, the trilogue was concluded and the co-legislators agreed to reconvene for another round of negotiation.

III. MAIN ISSUES

17. A fourth trilogue is scheduled on 16 June 2025. As the same two main political issues remain to be discussed in order to reach a provisional agreement on the proposed Regulation as a whole, the following approach is being considered by the Presidency.

18. The Presidency intends to continue advocating for longer time limits which reflect the experience of DPAs, the challenges of investigating large actors of the digital economy, and the need to guarantee the integrity and validity of the overall procedure leading to a final decision, which may include possible corrective measures and significant fines for the important cases.
- Based on the discussions with the Parliament during the third trilogue, the Presidency assesses positively the proposed compromise concerning the time limit for the enhanced cooperation procedure, with an initial time limit of 15 months for the enhanced cooperation procedure, extendable to up to 12 months on account of the complexity of a case.
 - The Presidency intends to maintain a pragmatic and realistic approach concerning the time limits applicable for the simple cooperation procedure. The Presidency considers that an initial time limit of 10 months for the lead DPA to submit a draft decision in such cases cannot be accepted and, as a starting point, will argue for an initial time limit no shorter than 12 months. The Presidency will also stress the need to foresee a limited extension, in particular where this is necessary for subsequent domestic procedure. A possible extension of this initial time limit may also be considered in circumstances which are beyond the control of the lead DPA and must be part of a compromise package should the Parliament insist on an initial time limit below 12 months.
19. The Presidency highlights that, based on the discussion during the last trilogue, the Parliament remains very reluctant to consider any further extension of time limits, in particular when it comes to the simple cooperation procedure.

20. As part of its position at first reading, the Parliament has introduced a dedicated provision on judicial remedies, which significantly expanded the scope and opportunities of judicial remedies against authorities for the parties under investigation and the complainant, adding three new avenues for judicial remedies.
21. The Presidency intends to continue arguing against the inclusion of the new article as originally proposed by the Parliament, and will oppose any proposal going beyond the remits of judicial remedies for complainant already established under the GDPR. The Presidency considers that such a position is supported by solid legal arguments and corresponds to the approach informally agreed by both co-legislators not to amend the provisions of the GDPR through this proposed regulation.
 - The Presidency intends to suggest, as a starting point, the text of the compromise considered during the third trilogue and to further align its wording with the wording of Article 78(2) of the GDPR, thus focusing the provision on the determination of whether a supervisory authority has not handled a complaint pursuant to Article 78(2) of the GDPR and, in this regard, the consideration whether the supervisory has not submitted a draft decision or a final decision within the time limit set out in the Regulation.
 - In any case, the Presidency considers that, to be acceptable, a compromise should not lead to the creation of new judicial remedies avenues for complainant in addition to the ones already established by the GDPR. A provision could however be considered insofar as it clarifies the elements to be considered in the application of Article 78 GDPR, including certain provisions and time limits introduced with the proposed regulation. The Presidency intends to also propose such clarifications in a recital.

Ex officio investigations

22. As for the third trilogue, finding an acceptable agreement on the issue of time limits and judicial remedies seems necessary to avoid, as part of a compromise package, the provision proposed by the Parliament on binding requests for ex officio investigation (Article 5a), which the Council has strongly opposed since the beginning of the interinstitutional negotiations.

IV. CONCLUSION

23. Having regard to the above, the Permanent Representatives Committee is therefore invited to confirm the proposed approach described above.
-