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From:	General Secretariat of the Council
To:	Delegations
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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 - Comments from Member States

Delegations will find in the Annex comments and informal contributions received on the position of the European Parliament adopted at plenary on 10 April 2024.

Contents

BULGARIA	2
CZECH REPUBLIC	4
DENMARK	7
ESTONIA.....	8
FRANCE.....	11
ITALY.....	14
LATVIA.....	19
POLAND	23
SLOVAKIA	107
FINLAND	113
SWEDEN	115

BULGARIA

The Bulgarian Commission for Personal Data Protection (Bulgarian SA, Bulgarian DPA), as previously stated, continues fully supporting the efforts of the European Union focused on strengthening the efficient implementation of the rules on personal data protection, including the common position of the Council of the EU to the Proposal. Following the discussions during the last meeting of the Working Party on Data Protection, please find the following concerns about the proposed position of the EP:

First, the Bulgarian SA would like to point out that in Bulgaria, the parties in the administrative proceedings are equal, thus we acknowledge the rationale in the position of the European Parliament on this issue.

Moreover, we believe that the achieved general approach of the Council should be defended. However, we also acknowledge the positive rationale in the position of the European Parliament, especially with regard to the shortening of the time limits, envisaged in the text of the Proposal.

a) What are the main points of concerns for your delegation in the EP report?

It is clearly stated that cooperation among supervisory authorities should not be limited because of differences in national procedural law. Supervisory authorities should make use of all options under applicable national law to allow parties in another Member State to participate in procedures. This may include remote video participation, interpreters or generally available means of communication. (Recital 2b, line 12b). In our view the main objectives of the proposed Regulation is to facilitate the cross-border procedures without amending procedural laws in the EU Member States. The same refers to the possible limitation of the length of submissions by the parties set by the supervisory authorities (Recital 13, para. 23), as no limitations are set at national level. With regard to Recital 14, para. 24, we suggest to stick to nine months instead of 3 months as proposed by the EP. The same refers to Recital 4, para 14, we strongly suggest to stick to the Council position.

As the Recital 36a, para. 46a - (36a) states and mirrors Art. 10 (5a), para. 123c: “The Board should be able to request any further information from supervisory authorities necessary for it to take a binding decision.” Following the GDPR provisions, the EDPB should take its decision under the evidences provided by the LSA and CSAs. Any additional documentation will hinder the procedure.

Last but not least, we suggest to exclude “... as well as procedural rules on related judicial remedies.” (Art. 1, para. 52) as far as judicial system is primarily within the scope of the MS matters.

b) What are the provisions of the General Approach where making concession would constitute a red line for your delegation?

Currently there is no red line for our delegation.

c) Where does your delegation see room for flexibility for the Council to move towards the EP position? Does the delegation see any possibility for such flexibility?

Possible room for flexibility for the Council may be the proposed text of:

- Recital 4, para 14 – suggest to stick to the Council position
- Recital 5, para. 15a – for discussion
- Entire Art. 5a could be negotiable.

CZ written comments on the EP report on Procedural Regulation

- document 11767/24
- 16 August 2024

CZ appreciates the opportunity given by the Presidency to send written comments by 19 August and provides the following comments on the basis of the Presidency questions circulated on 1 July:

a) What are the main points of concerns for your delegation in the EP report?

General points:

1. Expansion into the areas reserved for national law and to national division of powers

Articles 2b (in part), 26b and 28a encroach upon the necessary procedural autonomy of the Member States and upon the domestic division of powers. In Article 26b the role of courts as regards the details of procedures for GDPR enforcement is excessive and does not correspond to the normal role of courts in supervising administrative bodies. Normally, the courts do not rule on all possible specific actions that had not been taken by the administrative authority. The focus should be on appropriate empowerment of the parties or complainant within the proceedings, not on establishing regular external control. **Due to Article 1(1a) and 3(2) some rules apply even to local cases under Article 56(2) GDPR.**

2. Undue unification of positions of parties under investigation and complainant

Articles 2, 2b, 11 to 17 are modified to provide for the same position of complainant, parties under investigation and even third parties (Art. 2(2)(1b)). This does not make any sense because these subjects do not have the same position in fact. The rights of the complainant should correspond to his position as an individual entitled to fundamental rights. These rights (under GDPR and Art. 8 EU Charter) are protected by complaint, and this protection should be the purpose and precisely defined extent of procedural rights of the complainant. On the other hand, the party under investigation defends its processing by demonstrating compliance with applicable obligations. This should be the common standard of fair procedure. Granting (seemingly) the same procedural roles to the complainant and to the party of the investigation may evoke false impression that the DPA deals with contradictory dispute between two parties. This concept of adversary proceedings is contrary to the very purpose of the GDPR.

3. Excessive limitation of the supervisory authorities' discretion

Articles 3(2-2c), 4 and 5 limit too strictly any opportunities for the supervisory authorities to consider the complaint from the material (substantive) point of view. The supervisory authorities are even required to issue decisions that they will undertake ex officio investigation (Art. 5(1c)). Such an approach is burdensome for the supervisory authorities and it voids the purpose of their independence.

4. Excessive focus on procedural decisions to the detriment of parties and complainants

Article 26a does not take into account that EDPB is not a permanent body, but a meeting-based assembly which cannot take intermediate procedural steps in this manner.

Specific points:

5. Scope includes purely national proceedings

Articles 1(1a) and 26b provide for application of a part of new regulation to decision-making of the supervisory authority also in local cases pursuant to Art. 56(2) GDPR. This basically represents indirect amendment to GDPR and interferes without purpose even with cases where the lead supervisory authority

found that it does not need to be involved. It also leads to interference with deadlines that were perceived as not affecting the rights of the complainant or the party under investigation. The proposal completely omits more flexible (administrative) instruments to increase the efficiency of the proceedings, other than robust judicial review.

6. Joint case file and the ongoing immediate access to it

Article 2(2)(1f) establishes “joint case file”. That would probably entail a lot of additional rules and implementation efforts (IT, financial and human resources etc.), so the consequences of such a change should be carefully considered. In addition, the **Articles 2b(1c) and 8** would mean that the parties under investigation and the complainants have in fact almost real-time immediate online access to the file, which would create risks incompatible with efficient proceedings. Such an access must be directed (enabled) by the lead supervisory authority. **Article 2(2)(4a)(4b)** would present additional burden for the supervisory authorities in redacting non-confidential versions of documents on an on-going basis.

7. Ex officio requests

Article 5a represents unwarranted change of rules already present in Article 61 GDPR. There is no reason for these rules and expansion of the EDPB powers. In addition, in combination with Article 26b this could lead to cross-border “export” of positions of complainant to the proceedings led by other supervisory authorities, even contrary to Article 61(4) of GDPR.

8. Repeated summary of key issues

Article 9(2a) and 18(1)(b) presume repeated elaboration of summary of key issues. This does not take into account that the consensus may be built in later stages. CZ clearly prefers the solution reached in the General Approach.

b) What are the provisions of the Regulation that constitute a red line for your delegation?

1. complaint as a tool for protection of fundamental rights of data subject; corresponding delimitation of procedural position of the complainant (recital 3a, 16a)
2. fast resolution options flexible enough for the Member States (recital 9a, Article 5)
3. optional avoidance of repetition of procedural steps in case of multiple national proceedings (recitals 14 and 23a, Articles 9(5) and 14(8))
4. optional divergence from the procedural regulation (recital 10b, Article 6bis)
5. adequate flexibility for supervisory authority in dealing with complaints, choosing the course of action, including length and nature of most deadlines

c) Where does your delegation see room for flexibility for the Council to move towards the EP position? Does the delegation see any possibility for such flexibility?

General flexibility:

1. Languages and translations (EP Articles 2d and 6)

Since the strengthening of position of complainant and parties would lead to translations of most of the file anyway, we can be rather flexible to EP Article 6 and of Article 2 (such as paras 1, 6).

2. Cooperation procedures (EP Articles 10 and 10a)

We do not consider these proposals as an improvement, but they could be modified (e.g. to avoid reference to Art. 26a) in order to be acceptable as a matter of compromise.

3. Optional form

We can accept a form for complaint if it remains optional. However, accompanying EP Recital (4) must refrain from defining substantial grounds for rejection of complaint (consequences of termination of processing), for it tends to define substantial law, not procedural.

4. Determination of lead supervisory authority (EP Article 3(2))

5. Statistics (EP Article 28b)

However, the Council should aim to limit administrative burden and to ensure that the statistics does actually capture the real output of the supervisory authorities (i.e. to include steps taken in the course of preliminary assessment of complaints and to achieve fast resolution). We wish to point out that specifically the current GDPR statistics on the annual budget and the number of staff are well known to be misleading, because in the context of the GDPR the overall numbers are reported, including those not related to GDPR and data protection (in other words, budget and staff designated for other tasks and activities are inaccurately reported as GDPR-related).

6. Definition of deadlines (EP Article 29)

Limited flexibility:

7. Some procedural standards (EP Article 2b)

In the spirit of compromise, protection of communication between supervisory authorities pursuant to Article 2b(1)(c) could be adopted.

8. Immediate access of DPAs to joint case file (EP Article 8)

If the EP could accept that immediate access is granted only to other supervisory authorities, this could be a compromise solution. However, this does not solve IT, financial and other consequences (see our point in a)6.).

9. Deferred application (EP Article 31)

CZ would propose a compromise to defer application to at least 12 months for all the provisions.

(end of file)

DENMARK

- Line 20a: Denmark finds that there is a need to ensure a better protection of children and younger people's personal data. We therefore wish to keep the proposed recital 10a.
- Line 56a: The EP proposes to define "complaint" that includes "non-for-profit body, organization or association". We suggest to clarify that non-for-profit body, organization or association may only be recognized as a complaint if they have been properly constituted, cf. Article 80(1) of the GDPR, or if provided under Member States law, cf. Article 80(2). To us, it is very important that there is accordance between the Proposal and the GDPR. Alternatively, we suggest to stick to the Council mandate (not defining "complaint").
- Lines 56f, 59l, 59n: The EP introduces the notion of a "Joint case file". We cannot support this proposal as it contributes to making an overly complex procedure, and we have difficulties understanding the need for a joint case file.
- Lines 59k-59l: The EP proposes explicit rules on the right to be heard and on procedural transparency. However, these rules are too far-reaching as they risk to impose further procedural steps. Alternatively, we suggest to delete "additional" in line 59i ("Without prejudice to additional rights...")
- Lines 59h-59s: The EP proposes a new Article 2d on the Use of Languages and Translations. From a Danish side, we wish for this Article to be deleted entirely as it is burdensome and as in general unnecessary. It is the experience of the Danish Data Protection Agency that this matter does not cause any problems today.
- Line 62l: The EP proposes a shorter deadline for deciding admissibility (2 weeks whereas the council mandate was 4 weeks). The deadline is too short and we propose sticking to the Council mandate.
- Lines 69-72i: The proposed amendments from the EP may give the impression that the supervisory authorities are obliged beyond what follows from Article 57(1)(f) of the GDPR and we propose sticking to the Council mandate.
- Lines 74u-74ai: The EP introduces a new Article on "Request for an ex officio procedure". We are skeptical concerning the need for this article.
- Lines 178-188b: From a Danish side, we have throughout the Council negotiations on the Proposal stressed the importance of enshrining an appropriate protection of business secrets or other confidential information, cf. Article 21 concerning the Identification and protection of confidential information. As the EP now proposes to delete Article 21, we understand that confidential information and business secrets are protected by the underlying, national rules which will comply with our concerns. However, we are very interested to hear the reason for this proposed Amendment.
- Lines 231j-231p: The EP introduces a new Article on "Right to an effective judicial remedy against a supervisory authority". At this stage, we are skeptical on this Article which we also find unclear.

a) What are the main points of concerns for your delegation in the EP report?

As a general remark, we would like to point out the European Parliament's proposal contains several provisions that interfere excessively with national procedural rules, and this is one of the biggest concerns we have (e.g. articles 1 para 1, art 1 para 1a, 2a, 26b, 28a).

Other main concerns:

- For us, it is important that when a complaint is filed by a natural person, he or she must be identifiable. In addition, it is for national law to regulate to what level of certainty and how the person must be identified. Data that may be processed for identification purposes should be excluded from the scope of the Regulation.
- We do not consider it necessary to introduce more definitions into the regulation. The applicant is only the person whose rights have been possibly infringed, not any applicant. Nor do we want the regulation to clarify what is meant under national procedural law, the addition of the definition does not bring any added value. In addition, national procedural law may be broader and go beyond application by data protection authorities. We want to stick to the solution that was achieved with the general approach.
- Article 2d - we certainly do not want translations to be regulated in the regulation, as it increases the administrative burden. In the working group we unanimously agreed on the use of English as the working language and it's still our preference.
- Article 3 para 1a first sentence - The complainant shall not be required to contact the party under investigation before submitting a complaint. This sentence is excessive and gives the erroneous impression of a strong right for the data subject, which creates an excessive burden for the data protection authority. It seems to assume that a person does not have to address the controller when exercising its rights under Chapter III of GDPR, but can ask the data protection authority to do it instead. For example, if a person is interested in the legal basis under which a controller processes data, he or she should first contact the controller and ask relevant information to be provided, if he or she considers that there is insufficient clarity or does not agree with the legal assessment of the controller, the complaint can be launched to the data protection authority.
- Article 3 para 1b - since for us the 4 weeks proposed by the Council was already a compromise, we want to stick to it and we do not have room for compromise.
- Article 3 para 1c - we do not consider it necessary to give such a number, countries have different ways of managing documents. Giving a case number to a person does not add anything to its rights, it just increases the administrative burden.
- Article 3 para 2a - it is an excessive addition; we do not understand how it would create added value or contribute to the exercise of the rights of the data subject. There is a functioning system today and we would like to continue with it.
- Article 5 para 1a - we want to keep the Council version.
- Article 5 para 2 - we want to keep the Council version.
- Article 5a - we cannot agree with this change, each authority must be able to decide for itself which ex officio procedures to carry out. It is not compatible with the GDPR independence requirement when it comes to the DPAs.
- Article 6a - maintaining this article is important to us, in simpler cases, a large cooperation mechanism should not be initiated. It significantly reduces the administrative burden.
- Article 9 para 1 - the deadline proposed by the Parliament is too short and we cannot accept it, we want to stick to the deadline proposed by the Council.

- Article 9 para 2a - continuously updating the summary of key issues is a considerable burden and we do not see the added value that would justify this burden. Renewal should only happen in a case where there are very substantial fundamental changes.
- Article 10a - cooperation with other concerned authorities is regulated. In such a situation, information is obtained based on national law, the Regulation regulates cooperation between data protection authorities. It is incomprehensible to us why this regulation must interfere with communication between national authorities. In our view, such an article should not be included in the regulation.
- Article 26a - we do not consider it reasonable to further increase the burden on the EDPB as we do not see that this provision would have a positive impact on the parties involved.
- Article 28b - we believe that a proper information system should be set up that enables not only the exchange of documents, but also the handling of the case, and it should be possible to extract all the necessary statistics from such an information system without burdening the DPAs with this task. We do not want to impose additional obligations for the provision of such statistics, this will only increase the administrative burden.

b) What are the provisions of the Regulation that constitute a red line for your delegation?

It is very important for us to maintain recitals 14a and 23a as they are stated in the general approach. This constitutes a red line for us.

As we have pointed out, there are two parallel proceedings in Estonia to exercise our powers under the GDPR: administrative proceedings and misdemeanour proceedings. Most investigations are carried out only within administrative proceedings with the purpose of identifying possible infringements and taking corrective measures pursuant to GDPR article 58(2) points a-h and j, with the aim to end the infringement. To clarify, **within administrative procedure, the proposal would be applied in full**. Only if our actions carry a purely punitive purpose i.e. when a fine is being imposed to the controller pursuant to GDPR article 58(2)(i), a separate misdemeanour procedure must be conducted. Not all cases turn into misdemeanour proceedings but if elements of a misdemeanour are revealed, the supervisory authority is required to commence misdemeanour proceedings.

Since misdemeanour proceedings are a type of criminal proceeding, a different set of rules applies. **It is against the principles of our criminal procedural law to grant the right to be heard and share documents with the complainant/party under the investigation in the manner specified in the proposal.**

c) Where does your delegation see room for flexibility for the Council to move towards the EP position? Does the delegation see any possibility for such flexibility?

- Generally, we do not prefer to change the structure of the regulation, but if this does not result in major fundamental interferences with national procedural law, then here we can show some flexibility.
- We can support the concept of joint case file if a functioning procedural IT-system (case handling system) is created for this purpose, but only then. Also, it is important to us that the parties to the procedure would have access to this file only on request, to ensure the confidentiality of information.
- Article 2b para 1b - we are in favour of a more general regulation of the right to be heard.

- Article 3 para 1 - provided that the template is not mandatory and not related to the assessment of the admissibility criteria, we can show some flexibility. However, our preference would be the Council's version.
- Article 5 para 1 - we would support the legal basis for the use of amicable settlement to come directly from the Regulation.
- Article 5 para 1d - in case of doubt, the DPA can always open an ex officio case, we do not see an added value on this provision, but we can be flexible here as it would facilitate the negotiations. even more so, the conditions set out in the paragraph may limit the competences of data protection authorities. It must be taken into account that competences should not be restricted.

FRANCE

A la suite de la réunion du groupe Data protect organisée le 22 juillet 2024, en réponse à l'invitation de la présidence d'adresser des commentaires écrits, les autorités françaises souhaitent faire part des éléments suivants.

D'une manière générale, les autorités françaises rappellent les grands objectifs poursuivis par l'orientation générale du Conseil à savoir que cette proposition de règlement a vocation à compléter le RGPD sans le modifier et afin de le rendre encore plus efficace. La proposition doit donc éviter d'alourdir démesurément la charge administrative des autorités de contrôle pour que les procédures prévues complètent le RGPD là où des manques ont été identifiés, tout en restant praticables, faute de quoi le résultat serait contreproductif.

a) Quels sont les principaux points de préoccupation des autorités françaises dans le rapport du Parlement européen ?

Les autorités françaises sont particulièrement attachées à ce que la proposition de règlement procédural ne modifie pas le RGPD. Aussi, plusieurs propositions du Parlement européen qui ont pour effet de modifier directement le RGPD devraient être écartées (par exemple l'article 1er, paragraphe 1 bis et son pendant à l'article 26 ter).

Les autorités françaises sont également très attachées à ce que l'équilibre auquel le Conseil est parvenu pour ce qui concerne les droits des plaignants et des parties faisant l'objet de l'enquête ne soit pas remis en cause, et à cet égard que les dispositions qui alignent les droits des plaignants sur ceux des parties faisant l'objet de l'enquête ne soient pas repris.

Les autorités françaises restent également très vigilantes à ce que la charge administrative des autorités de contrôle ne soit pas démesurément et inutilement alourdie, et à ce que la procédure ne soit pas d'une rigidité excessive. A cet égard, les autorités françaises sont tout à fait opposées à l'introduction d'un formulaire de plainte, à la création du dossier commun, aux dispositions relatives à la taille des documents ou aux traductions (ainsi par exemple aux articles 2 bis, 2 quater, 2 quinquies), à la procédure prévue à l'article 3 pour l'introduction des réclamations transfrontalières, à la procédure prévue à l'article 8, paragraphe 1^{er} concernant la mise à jour permanente des informations pertinentes, qui est susceptible d'alourdir la charge administrative des autorités de contrôle et de rigidifier les échanges de manière excessive, à la procédure prévue à l'article 9, relatif au résumé des points essentiels, qui s'avère trop lourde dans le texte du Parlement européen au regard des prescriptions elles-mêmes trop détaillées. Tel est le cas par exemple du paragraphe 2bis concernant la mise à jour du résumé des points essentiels au fur et à mesure.

Les autorités françaises estiment également que l'article 16 sur l'adoption des décisions finales est superflu.

Enfin, concernant l'article 31 relatif à l'entrée en vigueur et aux délais d'application du règlement, les autorités françaises estiment que les délais d'entrée en application devraient être allongés. De plus, le séquençage avec plusieurs dates décalées apparaît inopportun et source d'une trop grande complexité.

b) Quelles sont les dispositions de l'orientation générale pour lesquelles toute concession constituerait une ligne rouge pour les autorités françaises ?

A titre prioritaire, les autorités françaises souhaitent le maintien de l'article 6bis de l'orientation générale du Conseil. Il s'agit d'un point essentiel du texte de l'orientation générale du Conseil pour garantir une charge administrative équilibrée pour les autorités de contrôle : des obligations de coopération renforcées pour les cas où c'est utile, et le maintien de la procédure actuelle là où elle fonctionne en pratique pour un volume très conséquent de cas plus simples.

Par ailleurs, le maintien des articles 3, 5, 9, 10, 11 et 12, quitte à les fusionner, 14, et notamment son paragraphe 2bis, 18 et les articles finaux sur les procédures devant le CEPD (en particulier le 28bis ajouté au Conseil, mais aussi les rédactions des articles des chapitres V et VI) sont particulièrement importants pour les autorités françaises.

Enfin, concernant la suppression des articles relatifs à l'accès au dossier, les autorités françaises rappellent que le droit français ne prévoit pas l'accès au dossier par le plaignant. Aussi, si cet accès devait être imposé par le règlement, elles seraient vigilantes à ce que les garanties suffisantes concernant la protection des informations confidentielles et du secret des affaires soient clairement mentionnées dans le corps du texte telles que prévues aux articles 20 et 21 du texte de l'orientation générale.

c) Où les autorités françaises peuvent-elle envisager une flexibilité pour que le Conseil se rapproche de la position du Parlement européen ? Les autorités françaises entrevoient-elles la possibilité pour une telle flexibilité ?

Les autorités françaises rappellent que l'orientation générale du Conseil doit constituer le mandat de départ pour la présidence hongroise dans le trilogue. Cependant, si des marges de flexibilité devaient être dégagées, elles considèrent que sur certains aspects, le texte du Parlement européen présente des aspects intéressants pour compléter le texte de l'orientation générale du Conseil. Il en est ainsi par exemple en ce qui concerne certains délais contraignants introduits (par exemple à l'article 4 relatif au traitement des plaintes, concernant le paragraphe 1 ter, ou à l'article sur le

renvoi au règlement des différends en vertu de l'article 65, paragraphe 1 (a) du RGPD, bien que les durées retenues soient trop courtes et mériteraient d'être allongées).

Concernant l'article 5, relatif au règlement amiable, d'une manière générale, les autorités françaises sont très attachées à la version qui figure dans l'orientation générale du Conseil, néanmoins, le rappel fait à l'article 5, paragraphe 1 quinquies du texte du Parlement européen, suivant lequel la résolution amiable d'un cas n'empêche pas d'ouvrir une procédure d'enquête à l'encontre du responsable de traitement est intéressant pour compléter l'orientation générale du Conseil. Ce rappel non normatif aurait toutefois plus sa place dans un considérant.

Enfin, concernant l'article 28bis relatif aux statistiques, les autorités françaises considèrent, à l'instar du Parlement européen, que les statistiques sont un outil utile. Cependant, elles supposent au préalable des définitions communes de notions essentielles du RGPD, telles que les plaintes, à l'instar de la définition introduite en considérant dans le texte du Conseil.

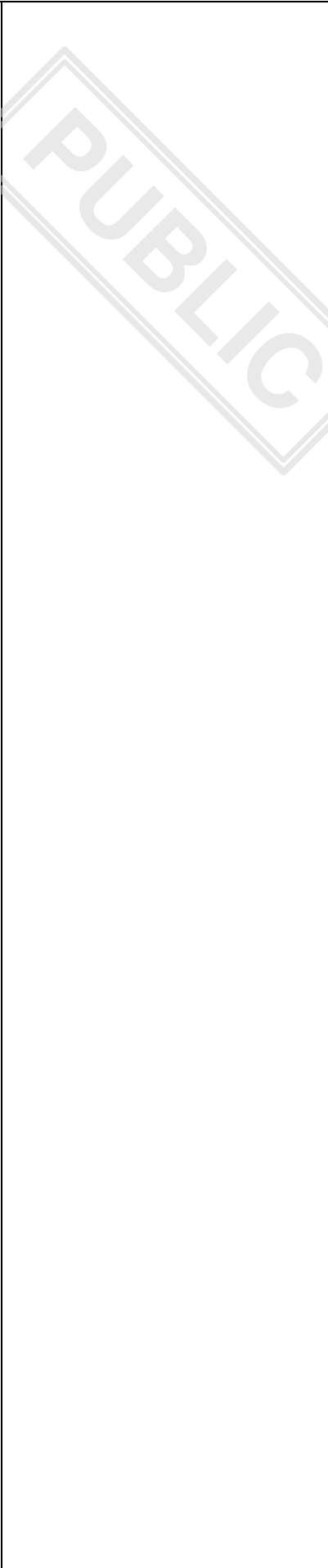
GENERAL QUESTION

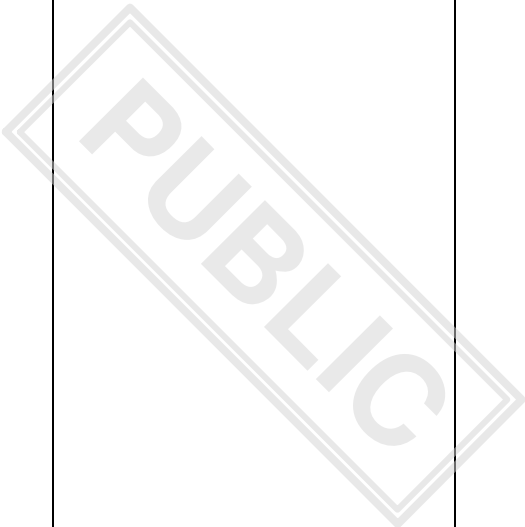
Answers of the delegation of Italy

critical issues	Red lines	flexible
<i>What are the main points of concern for your delegation in the EP report?</i>	<i>What are the provisions of the general approach where making concessions would constitute a red line for your delegation?</i>	<i>Where does your delegation see any flexibility for the Council to move closer to the EP position? Does the delegation see any scope for such flexibility?</i>
National applicable law We would suggest refraining from the use of references to national laws as one of the main objectives of this proposal for Regulation should be to enhance cooperation between the SAs by avoiding the possible conflict of national laws. Right of access of the parties While it is, in our opinion, important to harmonise the right of access to the	Amicable settlement The active role of the SAs should be kept Cooperation between Supervisory Authorities In our opinion, it is very important to keep Article 7(2) of the Council proposal according to which ‘the provisions in this section concern the cooperation between supervisory authorities and do not confer rights on individuals or the parties under	Article 4 We would be in favour of keeping Article 4.1a. of the EP proposal as it clearly sets out that: ‘The handling of a complaint shall always lead to a legally binding decision that is subject to an effective legal remedy under Article 78 of Regulation (EU) 2016/679.’ Amicable settlement We would also favour the amendment in Article 5(1) contained in the Ep report according to which a

administrative file enjoyed by parties under investigation and complainants, we believe that the provision in the EP position relating to the creation of a ‘joint case file’ may have many legal and technical implications that should be avoided, e.g. the creation of such joint case file would require complex changes to the systems used, it will need further clarifications in relation to the applicable national laws and the timeframe of the access to this file by the parties (continuous or only at a specific point in time?). Furthermore, it will require time to be implemented and the necessary allocation of additional technical and financial resources. Amicable settlement In our opinion, the Supervisory Authority should play an active role in the conclusion of amicable settlements, of course taking into account, in each case, the agreement of both parties.	investigation’. Summary of key issues (Article 9). We would propose to stick to the wording of Article 9 of the Council proposal. In particular, as the deadlines envisaged by the EP appear already to be too many and too detailed, we would prefer keeping the wording contained in Article 9(1) of the Council position. In addition, we do not consider it appropriate to insert the wording ‘The summary shall be drafted in an impartial way’ proposed by the EP. Preliminary findings (Article 14) We consider it necessary for the preliminary findings to be circulated by the LSA to the CSAs prior to being communicated to the party under investigation (as per Article 14(2bis) of the Council text). Relevant and reasoned objections (Article 18) We would prefer sticking to	complaint may be resolved by amicable settlement between the complainant and the party under investigation ‘at any stage of the proceedings’. Cooperation with other relevant authorities (Article 10a EP) We would welcome the introduction of the provision concerning cooperation with other EU and national authorities as it may bring more certainty even if, especially after the Meta judgement by the ECJ, the need to ensure fair cooperation among the different authorities is already clear. Please also note that some cooperation with other national competent authorities will be necessary on matters with an impact on data protection, in particular with consumer protection authorities, competition authorities, and authorities competent under other legal acts,
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The EP proposal seems to leave too much room to the parties and this does not take into account that usually complainants do not have the time, the resources or the position to effectively protect their rights vis-à-vis the controllers (e.g. in case of employees or in case of complaint vis-à-vis large controllers). In all these cases, supervisory authorities can better ensure the protection of data subjects. Ex officio investigations (Article 5a) We believe that the possibility for CSAs to request ex officio investigations by the LSA introduced by the EP Proposal risks to give rise to endless additional disputes and requires detailed additional guidance from the EDPB. Besides, it should be pointed out that the objective underpinning the proposed regulation is that of streamlining the cooperation between SAs on	the wording of Article 18 as proposed by the Council. In particular, we would not be in favour of keeping any provision of the paragraph 2 of the original EC proposal on the requirements related to the format and structure of relevant and reasoned objections Access to the administrative file (Article 20) We would prefer keeping the Council approach related to access to the files by the parties. In particular, in our view, it would be necessary to keep Article 20.3bis of the Council position which clarifies that ‘Correspondence, exchange of views and other information exchanged between supervisory authorities for the purpose of the investigation shall not be accessible to the parties under investigation, the complainant or third parties.’	including the EU Artificial Intelligence Act or those adopted under the European Data Strategy and the Digital Services Package. Statement of reasons (Article 24) We would be in favour of the EP proposal to delete Article 24 as we believe that there would be no need for the EDPB to directly hear the parties as they will have had already the right to be heard granted by the SAs during the procedure.
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existing OSS cases, not of regulating how SAs should address new or upcoming situations. It should be considered, moreover, that cases of interest could be flagged to any SA under the existing legal framework in line with Article 57(1)g GDPR. Procedural determinations by the Board (Article 26a) The possibility for the EDPB to settle disputes between DPAs in the form of “procedural determinations” by adopting urgent binding decisions may trigger, in our view, a huge amount of work for the EDPB and would impinge on SAs’ powers considerably and risks also to undermine the fair and sincere cooperation among the SAs. We would refrain from accepting it. In addition, the deadline of two weeks for the EDPB to determine the matter is too strict and would be difficult to respect in practice. Right to an effective	Statement of reasons (Article 24) If it does not prove possible to follow the EP suggestion to delete Article 24 on the Statement of reasons (see next column for our preference on this issue), we would highlight that the Council proposal is, for us, the only acceptable compromise on this issue.	
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judicial remedy against a supervisory authority (Article 26b) This provision seems to be unclear as it leaves room for different interpretations: It is not clear, in the first case, which 'powers' a complaint-receiving SA would be required to use to ensure that another supervisory authority progresses the procedure; it is not clear which court Article 26b(3) refers to as it seems to imply that national courts should have the power also to review the actions of SAs in other Member States and order them to comply with their duties. Given that the deadlines envisaged by the different provisions appear to be too many and in many cases, too strict, we would consider it inappropriate to envisage a legal remedy in case of non-compliance by the lead SA with any one of them as this could undermine the work that has to be carried out in handling each case.		
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LATVIA

Pursuant to the request of the Hungarian Presidency for written comments on the position of the European Parliament adopted at Plenary on 10 April 2024 (hereafter – EP position) on the 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 (hereafter – Proposal), please find preliminary comments of Latvia (hereafter – LV).

As regards the EP position, LV has concerns about the role of the complainant in the procedure (e.g. **Amendment 33, 64** of EP position). EP position includes that complainant needs to be actively informed, but also aims to promote the hearing of the complainant at all stages of the investigation. In fact, those amendments provide, without exception, for the procedural role of the complainant in the investigation against the controller or processor. This position runs counter to the general approach reached in the Working Party, where a balanced compromise was found on the role of the complainant. EP position about role of complainant is not in line with the national procedural rules of LV. Namely, LV process “complainant – supervisory authority” and the “controller/processor– supervisory authority” process is separated from each other. The decisions taken in each of these proceedings are appealed in court separately. This does not mean that an opinion from complainant cannot be heard during an investigation, but it is different from being the party of the process and express opinion on each procedure or explanation of the controller. According to the GDPR data protection authorities are not mediators between the controller and the data subject, but competent authorities that have to evaluate the implementation of the GDPR by the controller and data subject cannot instruct DPA on the evaluation process of the accountability. That is why data subject could be involved in the case as the party with full consultation process only in case when it concerns only this data subject or in case of the submission of the application by the non-governmental organization according to the Article 80 of the GDPR.

LV has concerns about new definition “party” (**Amendment 52**, Article 2(2)(1b) of EP position) that is too broad (“the party or parties under investigation, the complainant(s) and any third party involved in the proceedings as defined under national law”), and it’s not in accordance with general approach and LV national legislation. For example, Amendment 56 (Article 2(2)(1f)) of EP position provides for access to the file for “parties”, but according general approach third persons shall not be entitled to receive an access to the file. LV is of opinion that defining the roles of involved parties should be left to national regulation.

The condition that the complainant is not required to contact the person under investigation (controller or processor) before lodging a complaint is also a matter of concern (**Amendment 68** (Article 3, paragraph 1 a (new) of EP position). Such a condition may have a negative effect, i.e.

instead of the data subject approaching the controller and resolving the problem amicably, the data subject will approach the supervisory authority immediately, thus creating an unnecessary burden for the supervisory authorities. In LV's view, it is important that data subject proves that he or she has tried to exercise his or her rights by initially approaching the controller/processor, as the LV case-law has established that the supervisory authority should not act as an intermediary between the controller/processor and the data subject in cases where the data subject may exercise his or her rights himself or herself by taking action against the controller/processor. This amendment should be read in conjunction with **Amendment 5** (recital 4) of EP position, which states that the complainant should not be required to contact the person under investigation. It should be noted that situations tend to be different and, in those cases, where the complaint relates specifically to the exercise of the rights of the data subject, he or she should initially address himself or herself to the controller to exercise his or her rights. Exceptions could apply in cases where persons are in a subordinate relationship, data subject does not know the controller/processor or other cases. These issues should therefore be left to national regulation.

The conditions for access to the common file set out in the EP position are a matter of concern. The EP position use the term "joint case file" (**Amendment 56**, Article 2 – paragraph 2 – point 1 f (new) and elsewhere in the text of EP position) does not seem to be a suitable, nor is it clear how it will be possible in practice to ensure safe, immediate, unrestricted and uninterrupted remote access to the complete joint case file for supervisory authorities and parties. To ensure such an access it would be necessary to build special document exchange tool for each supervisory authority. Each member state already has requirements and tools how exchange the information between authorities and the parties, according of the national legislation and it have to has the possibility to do it also for the data protection cases. LV suggests that the remote access could be provided for exchange of relevant case information between supervisory authorities.

There are concerns about the time limits included in the EP position, which are in some places more restrictive and which may ultimately have a negative impact on the quality of investigations, especially for smaller supervisory authorities. **Amendment 89** of EP position provides that the draft decision shall be adopted within 9 months of receipt of the complaint, unless exceptional circumstances arise (**Amendment 6** of EP position). LV is of the opinion that this statement does not reflect practice, i.e. in cases of complex and voluminous cases, procedures could take more than 9 months, LV is of the opinion that proportionate and practice-compliant deadlines for certain procedural steps were set in general approach.

As well as the time limit regarding the two weeks when deciding upon admissibility of the complaint (**Amendment 69**, Article 3 (1) b)), LV is concerned that it would not be possible to reach this time limit in complex cases and that it disproportionately restricts the process of investigation.

LV finds that the proposed 3 months deadline to issue a draft decision in non-contentious cases (**Amendment 118**, Article 9 (6)), would not be considered as proportionate, in particular taking into account Parliament's proposition for hearing all parties, clarification of opinions, which alone already would take 2 months.

LV is concerned about the inclusion of conditions regarding the use of languages and translations (e.g. **Amendment 66** of EP position). There was no support in the Working Party to settle the issue of language and translation. At the same time, LV does not conceptually object to the definition of the "cooperation language" as such, as all communications are already conducted in English language. It is precisely the translation aspect that is of concern, as the legal nature of such translation and the scope of rights and obligations are unclear. Thus, for example, if persons are provided with information in the original language and with a translation into the language of national procedural law or any other language that the person understands. It is unclear from this whether the supervisory authority would be obliged to translate the information into a language that the person understands if he or she declares that he or she does not understand the language of national procedural law.

LV does not understand the substance of **Amendment 70** (Article 3(1c)) of EP position as the notification of case number to complainant seems to be an unnecessary bureaucratic procedure. If necessary, it is also possible to identify a complaint on the basis of other criteria.

LV considers the requirement in **Amendment 75** (Article 3 (2a)) of EP position immediately provide the complaint to the party under investigation and request a reply without undue delay to be inappropriate. First of all, there may be cases where the examination of a complaint will lead to a decision not to initiate investigative actions against the controller, or where the case is obvious and all evidence can be obtained without the transmission of the complaint (e.g. by consulting the website), or where complaints have been received from several persons and the authority decides to initiate an investigation ex officio, with the result that there is no need to inform the controller directly about the complaints received or the persons who submitted them.

Regarding the form of the complaint (**Amendment 67**, Article 3 (1)), LV is of opinion that there should be no form, as practice of Member states is too different, and proposition of Parliament does not provide sufficient flexibility to apply national regulation.

The EP position defines that the investigation of a complaint shall take into account such circumstance as delivering remedy to the complainant (**Amendment 85**, Article 4 (1) a)). LV finds that this requirement could potentially be problematic as the wording “remedy to the complainant” means that the complainant has some rights against the controller. Perhaps it could be addressed by asking to stick to the text of the GDPR, which is reflected in the Council's proposal.

LV finds that the Parliament’s proposition to include preliminary assessment with relevant case law, recommendations, guidelines and best practices in the summary of key issues in the time frame of 4 weeks, too unrealistic in practice (**Amendment 113**, Article 9 (2) c)). LV is of opinion that the summary of key issues shall include for the most part initial findings and further approach, but not extended analysis of the case.

Overall, LV finds EP position to be too restrictive and scrupulous, therefore the proposition of Council seems to be more suitable and aimed at reaching reasonable process of investigation.

Red line - Article 5 (recital 5,) of the general approach and **role of complainant**. LV does not want to make any derogation from Article 5 and any other changes affecting the role of the complainant in the procedure, especially if they will be aimed at strengthening the role of the complainant and increasing the scope of its rights.

In the general approach, Article 5 was developed as the closest possible way to harmonize procedure for the early resolution of complaints relating to cross-border processing handling of a complaint. Article 5, drafted in the Working Party, is the best possible compromise, the procedure is flexible enough to allow member states without an amicable settlement institute to deal with the complaint early - the text of Article 5 was found to be acceptable also to the national regulations which do not have an amicable settlement procedure.

LV is of the opinion that the Proposal should not change the national procedural framework on subjective rights of persons. Taking into account the different national frameworks, LV has already conceded a compromise on the role of the complainant in the procedure. LV maintains its view that the complainant should be involved in the procedure when assessing the impact of the complaint on the complainant itself.

POLAND

Commission Proposal	EP Proposal	Council Proposal	PL comments
Chapter I General provisions	Chapter I General provisions	Chapter I General provisions	
	Section 1a <u>Subject matter, scope, and definitions</u>		
Article 1 Subject matter This Regulation lays down procedural rules for the handling of complaints and the conduct of investigations in complaint- based and ex officio cases by supervisory authorities in the cross-border enforcement of Regulation (EU) 2016/679.	Article 1 Subject matter and scope 1. This Regulation lays down procedural rules for the handling of complaints and the conduct of investigations in complaint- based and ex officio cases by supervisory authorities cross-border enforcement of Regulation (EU) 2016/679 whenever supervisory authorities of more than one Member State are involved in the case, as well as procedural rules on related judicial remedies. 1a. Article 26b of this Regulation also applies to cases before a supervisory authority of a single Member State, pursuant to Article 56(2) of Regulation (EU) 2016/679.	Article 1 Subject matter Scope This Regulation lays down procedural rules for the handling of complaints and the conduct of investigations in complaint-based and <i>ex officio</i> cases by supervisory authorities in the cross-border enforcement of Regulation (EU) 2016/679 <u>for cross-border processing.</u>	We support the Council's proposal which is consistent with the Commission's proposal. The Parliament's proposal also deserves support because it explains the procedure for conducting proceedings in the case of local proceedings.
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 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 and the lead supervisory authority's views on the case; (3) 'preliminary findings' means the document provided by the lead	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) complained about, or investigated for alleged infringement of Regulation (EU) 2016/679 related to cross-border processing, as well as their representative(s) (1a) 'complainant' means the data subject or non-for-profit body, organisation or association that has lodged a complaint under Article 77 of Regulation (EU) 2016/679 and is therefore considered as a party to the proceedings;	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 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	

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.	(1b) 'party' means the party or parties under investigation, the complainant(s) and any third party involved in the proceedings as defined under national law; (1c) 'national procedural law' means laws, regulations and administrative provisions of the Member State that regulate the procedure before a supervisory authority; (1d) 'complaints procedure' means a procedure determining the outcome of a complaint under Article 77 of Regulation (EU) 2016/679; (1e) 'ex officio procedure' means an investigation into the activities of a natural or legal person, public authority, agency or other body initiated on a supervisory authority's initiative under Article 57(1), point (a), of Regulation (EU) 2016/679; (1f) 'joint case file' means a dedicated electronic file for any case falling under the scope of this Regulation, that is managed by the lead supervisory authority and in which all relevant information, in particular documents, submissions, memos and other information regarding a case, are stored and made remotely accessible to supervisory authorities concerned and parties to the case; (1g) 'complaint-receiving authority' means the supervisory authority with which the complaint has been lodged as referred to in Article 4(22), point (c), of Regulation (EU) 2016/679; (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 within the preliminary scope of the investigation and the lead supervisory authority's factual and legal views on the case; (3) 'preliminary findings' means the document	concerned identifying the main relevant facts and the lead supervisory authority's 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, <u>preliminary</u> 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.	Therefore, it is more of a terminological difference than a substantive one.
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	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. (4a) 'confidential version of a document' means a document containing confidential or sensitive information which may be subject to legal privilege under the applicable Union or national law and data protection rules; (4b) 'non-confidential version of a document' means a version of a document from which confidential or sensitive information has been redacted and which can be provided to the complainant without breaching Union or national law or data protection rules.	
	<u>Section 1b Procedural rules</u>	
	Article 2a Applicable Procedural Law 1. In addition to this Regulation, and provided that it is not in conflict with this Regulation, the procedural law applicable before a supervisory authority shall govern all direct interactions between that supervisory authority and the parties before it. This Regulation shall not preclude Member States from specifying procedural matters not regulated by this Regulation or Regulation (EU) 2016/679. 2. This Regulation and Regulation (EU) 2016/679 govern the interaction between supervisory authorities of different Member States that falls within the scope of this Regulation. 3. A complainant shall have the right to	We do not raise objections to this EP's proposal.

	communicate exclusively with the supervisory authority with which the complaint has been lodged pursuant to Article 77 of Regulation (EU) 2016/679.		
	Article 2b Common procedural standards 1. Without prejudice to additional rights under national procedural law, each party shall have at least the following rights: (a) to have their case handled impartially and fairly, and to be treated equally, even if they are before different supervisory authorities in different jurisdictions ("fair procedure"); (b) to be heard before any measure is taken that would adversely affect them, including before the decision to uphold, or to fully or partially reject a complaint is adopted ("right to be heard"); (c) to have access to the joint case file, except to any internal deliberations of the supervisory authority or deliberations between those authorities ("procedural transparency"). 2. The lead supervisory authority shall inform and hear the parties at appropriate stages of the procedure, in order to allow them to effectively express their views on all factual findings and legal conclusions made by the lead supervisory authority. 3. The joint case file shall include all evidence, inculpatory and exculpatory, including documents and other evidence provided by the parties under investigation. 4. On the request of a party to protect their legally recognised rights or to protect the rights of others, or when it is in the public interest or in order to protect operational security and cybersecurity a supervisory authority may limit the rights referred to in paragraph 1, point (c). Any such limitation		We do not raise objections to this EP's proposal.

shall be carried out in accordance with the national procedural law applicable under Article 2a(1) to any direct interaction between a supervisory authority and the party receiving limited information, and must be proportionate in light of the respective recognised rights of others or the public interest pursued. The party claiming confidentiality shall provide a confidential version of any information, as well as a suggested non- confidential version.

5. The non-confidential version of documents that were provided by a party shall be determined by the supervisory authority making a determination pursuant to first sentence of paragraph 4, applying only strictly proportionate measures, such as redacting specific parts of documents.

6. Supervisory authorities concerned shall always have access to the confidential version of all documents, and may object to redactions that they consider not strictly proportionate. Supervisory authorities pursuant to first sentence of paragraph 4 shall immediately inform the parties about the fact that information is withheld. The lead supervisory authority shall keep records of each access to the joint case file.

7. In the interest of efficiency of procedures, supervisory authorities shall limit the length of submissions by the parties to not more than 50 pages. Those authorities shall set reasonable and appropriate time limits not shorter than three weeks and not longer than six weeks, unless exceptional circumstances require a reasonable extension. The supervisory authorities shall not be obliged to take into account written views received after the expiry of that time-limit.

8. The lead supervisory authority may join and separate cases in accordance with

	national procedural law, insofar as this does not undermine the rights of the parties.		
	Article 2c Cooperation between supervisory authorities 1. The lead supervisory authority shall structure, coordinate and manage the case in an efficient and expedient way, in accordance with Regulation (EU) 2016/679, this Regulation and any applicable national procedural law. 2. Any supervisory authority may declare that it is concerned, setting out the reasons why it meets the definition of a supervisory authority concerned under Article 4(22) of Regulation (EU) 2016/679. The lead supervisory authority shall maintain a list of supervisory authorities concerned for each case in the joint case file. Where the lead supervisory authority considers that a supervisory authority which has made a declaration that it is concerned according to this paragraph does not meet the definition of a supervisory authority concerned, it shall inform that authority of its assessment. The supervisory authority which declared that it is concerned shall within one week of receiving that assessment either withdraw its declaration, or produce a reasoned opinion setting out the reasons why it considers the assessment of the lead supervisory authority to be incorrect. Where the diverging assessments of the lead supervisory authority and the supervisory authority which declared to be concerned cannot be resolved in a different manner, the lead supervisory authority shall request a determination of the Board under Article 26a. 3. Any supervisory authority concerned which receives relevant information for a case shall provide it to the lead supervisory authority		We do not raise objections to this EP's proposal.

	without delay, but no later than one week from the day that it received such information. 4. Where diverging views cannot be overcome or in the case of inactivity of another supervisory authority, supervisory authorities shall use the powers intended for resolution of such situations under this Regulation and under Chapter VII of Regulation (EU) 2016/679. 5. All written documents by the supervisory authorities shall be provided by electronic means and in a concise, transparent, intelligible and easily accessible form, using clear and plain language.	
	Article 2d Use of Languages and Translations 1. The Board shall determine one language that shall be accepted by all supervisory authorities during the cooperation between authorities ("cooperation language"). 2. When a supervisory authority shares relevant information with another supervisory authority, it shall provide a translation into the cooperation language or any other language the receiving supervisory authority accepts. 3. The lead supervisory authority shall provide submissions into the joint case file in the original language, and shall provide translations into the cooperation language. 4. In any direct interaction with the parties, supervisory authorities shall provide parties with information in the original language and, if necessary, either a translation into the language of the national procedural law, or into any other language the party understands or uses in its routine external communication. 5. A supervisory authority may provide automated translations, if it finds that the	We do not raise objections to this EP's proposal.

	automated translation is not substantially different from the original. 6. When a judicial remedy is filed against a supervisory authority, the supervisory authority shall provide the joint case file and any other relevant information in a language accepted by the judiciary of the Member State.		
Chapter II Submission and handling of complaints	Chapter II Submission and handling of complaints	Chapter II Submission and handling of complaints	
Article 3 Cross-border complaints 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. 2. The supervisory authority with which the complaint was lodged shall establish whether the complaint relates to cross-border processing. 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, the supervisory authority with which the	Article 3 Cross-border complaints 1. A complaint on the basis of subject to this Regulation (EU) 2016/679 that relates to cross-border processing shall provide the information required in the Form template, as set out in the Annex. No additional information shall be required in order for the complaint to be admissible. The information can be provided by any means the authority accepts, including by not using the template. 1a. The complainant shall not be required to contact the party under investigation before submitting a complaint. Where the complainant was in contact with the party under investigation before submitting the complaint relating to the same matter, he or she shall submit the communication related	<i>Article 3</i> <i>Cross-border complaints relating to cross-border processing</i> 1. For a complaint on the basis of Regulation (EU) 2016/679 that relates to cross-border processing shall provide to be admissible, the following information shall be provided: required in the Form, as set out in the Annex. (a) name of person or entity filing the complaint; (b) where the complaint is submitted by a body, organisation or association referred to in Article 80 of Regulation (EU)	The EP's proposal is in line with the PL position as it grants the authority to which the complaint has been lodged, the power to decide whether to declare the complaint admissible. Such a model would allow the authorities to request the complainant to supplement formal deficiencies. <i>„The supervisory authority with which a complaint has been lodged shall, within two weeks, acknowledge receipt and admissibility of the complaint, or, where a complaint does not meet the requirements pursuant to paragraph 1, declare the complaint inadmissible and inform the complainant about the missing information.“</i>

complaint was lodged shall transmit the complaint to the lead supervisory authority.

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.

to that contact pursuant to the Annex.

1b. The supervisory authority with which a complaint has been lodged shall, within two weeks, acknowledge receipt and admissibility of the complaint, or, where a complaint does not meet the requirements pursuant to paragraph 1, declare the complaint inadmissible and inform the complainant about the missing information.

1c. The supervisory authority shall attribute a case number to the complaint and communicate this information to the complainant. This shall be without prejudice to the assessment of admissibility of the complaint pursuant to paragraph 2(c), point (i).

2. The supervisory authority with which the complaint

~~was has been~~ lodged shall ~~establish whether,~~ within three weeks after acknowledging the a dmissibility

of the complaint ~~relates to cross-border processing~~

pursuant to paragraph 1b:

(a) establish, by way of a preliminary conclusion, whether the complaint relates to cross-border processing of personal data of the complainant, considering at least the following:

(i) relevant controller or processor for the processing in question;

(ii) number of establishments of the controller or processor in the EU;

(iii) place of the main establishment;

(iv) activities of establishments in more than one Member State;

(v) substantial effect or likely substantial effect on data subjects in more than one Member State.

(b) establish which supervisory authority is the assumed lead supervisory authority

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 submitted 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 filing the complaint;

(e) elements allowing for the identification of the controller or processor which is the subject of the complaint;

(f) explanation of the alleged infringement of Regulation (EU) 2016/679.

1bis. The supervisory authority with which the complaint was lodged shall decide on the admissibility of the complaint within four weeks after receiving all the necessary information

under Article 56(1) of Regulation (EU) 2016/679, and whether the case is local in nature pursuant to Article 56(2) of Regulation (EU) 2016/679,

(c) take one of the following actions:
(i) transmit the complaint to the assumed lead supervisory authority under Article 56(1) of Regulation (EU) 2016/679 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; or
(ii) handle the complaint under Article 56(2) of Regulation (EU) 2016/679.

2a. The lead supervisory authority shall immediately provide the complaint to the party under investigation and request a reply without undue delay, but no later than three weeks from the day the party under investigation was informed by the lead supervisory authority. In complex cases, and where requested and duly justified by the party under investigation, the time for replying can be extended by the lead supervisory authority by another three weeks.

2b. The parties or the assumed lead supervisory authority shall raise any objection in relation to the competence of the assumed lead supervisory authority or to the handling of a complaint under Article 56(2) of Regulation (EU) 2016/679 within three weeks from being informed about the action taken pursuant to Article 3(2), point (c).

2c. Where an objection under paragraph 2b was raised, the supervisory authority with which the complaint has been lodged may withdraw the transmission of the complaint and either assume its own competence under Article 55 or 56 of Regulation (EU) 2016/679

according to paragraph 1, pursuant to the following :

a) ~~No additional~~ Only information under paragraph 1 shall be required in order for the complaint relating to cross-border processing to be admissible.

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

The supervisory authority with which the complaint was lodged may extend by two weeks the period to decide on the admissibility of a complaint on account of the complexity of the case.

1ter. 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.

2. The supervisory authority with which the complaint was lodged shall determine, by way of a preliminary conclusion, ~~establish~~ whether

or transfer it to an assumed lead supervisory authority within two weeks. If none of these actions were taken, or where differing assessments of the supervisory authorities involved cannot be resolved otherwise, the supervisory authority with which the complaint has been lodged shall request a determination by the Board under Article 26a. It shall provide the Board with a description of relevant processing activities, of the company's organisation and a description of where decisions are taken.

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, the supervisory authority with which the complaint was lodged shall transmit the complaint to the lead supervisory authority.

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.

the complaint relates to cross-border processing and 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 where relevant whether the case may be handled in accordance with Article 56, paragraph 2 of Regulation (EU) 2016/679.

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 Where a complaint that relates to cross-border processing is admissible by the Form, 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 assumed lead supervisory authority.

4a. Within eight 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

		<u>establishment, refer the subject-matter to the Board for dispute resolution under Article 65 (1) (b) of Regulation (EU) 2016/679. This shall not preclude supervisory authorities from referring the subject-matter to the Board for dispute resolution under Article 65(1)(b) of Regulation (EU) 2016/679 after the expiry of this deadline.</u> 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 II Submission and handling of complaints	Chapter II <u>Submission and handling of complaints and ex officio procedures</u> <i>(Heading Chapter II is placed from before article 3 to after article 3)</i>		
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	Article 4 <u>Investigation Handling of complaints</u> 1. While assessing the extent appropriate to which a complaint should be investigated in each case the lead supervisory authority shall take into account all relevant circumstances,	Article 4 <i>Investigation of complaints</i> While assessing the extent appropriate to which a complaint should be investigated in each case the lead supervisory authority or, as	

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.	including all of endeavour to ensure the following: (a) the expediency of delivering the delivery of an effective and timely remedy to the complainant; (b) the gravity of the alleged infringement; (c) the investigation of any other elements necessary for the efficient enforcement of Regulation (EU) 2016/679, including the ex officio exercise of powers pursuant to Article 58)2, Article 83 or Article 84 of Regulation (EU) 2016/679, especially in the case of systemic, grave or repetitive infringements nature of the alleged infringement. 1a. The handling of a complaint shall always lead to a legally binding decision that is subject to an effective legal remedy under Article 78 of Regulation (EU) 2016/679. 1b. The lead supervisory authority shall deliver a draft decision pursuant to Article 60(3) of Regulation (EU) 2016/679 without delay, and no later than nine months from the receipt of the complaint. This deadline may exceptionally be extended by: (a) eight weeks when comments under Article 9(3) are submitted with regard to a summary of key issues or an updated summary of key issues; (b) eight weeks where the lead supervisory authority intends to issue fines or other penalties; (c) the period of time between a reference under Article 26a(1) or (2) and the decision by the Board;	<u>the case may be, the supervisory authorities concerned,</u> 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 <u>handling the complaint in an effective and timely manner;</u> (b) the gravity nature of the alleged infringement; (c) the systemic or repetitive nature character of the alleged infringement.	
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	(d) the period of any prolongation permitted by the Board under Article 26a(3). Each extension under points (a) to (d) may only be done once. 1c. Paragraph 1b shall not apply once a case is submitted to the consistency mechanism in accordance with Article 60(4) of Regulation (EU) 2016/679.		
Article 5 Amicable settlement 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.	Article 5 Amicable settlement 1. A complaint may be resolved by amicable settlement between the complainant and the parties party under investigation at any stage of the proceedings. Where the The complaint-receiving or the lead 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. may encourage and facilitate that voluntary process. 1a. An amicable settlement between the complainant and the party under investigation shall be considered to be found where there is explicit agreement. Where an amicable settlement to the complaint has been found, the parties shall within one month communicate the settlement to the lead supervisory authority and the supervisory authority where the complaint has been lodged. 1b. Within one month after the communication of the amicable settlement under paragraph 1a, a draft decision pursuant to Article 56(4) of Regulation (EU) 2016/679 shall be submitted, indicating: (a) whether the conditions of an amicable settlement under paragraph 1a are fulfilled, and	<i>Article 5</i> Amicable settlement<u>Procedure for the early resolution of complaints relating to cross-border processing</u> 1. A complaint <u>relating to cross-border processing which concerns the exercise of data subjects' rights under Regulation (EU) 2016/679,</u> may be resolved <u>through a procedure allowing for its early resolution when:</u> a) <u>the supervisory authority with which the complaint was lodged, prior to the possible transmission of the complaint to the lead supervisory authority, considers that the controller or processor has duly addressed the alleged infringement of Regulation (EU) 2016/679 and that the complainant's request has been dealt with in a satisfactory manner.</u> or, b) <u>the supervisory authority with which</u>	Both proposals – both the EP and the Council provide the formal end of the settlement procedure. Therefore, we propose to follow the Commission's initial proposal or to rewrite Article 5 so that the arbitration procedure does not end in the adoption of a decision. This request was repeatedly raised during the meetings of the DAPIX working group, during which we asked for the deletion of paragraph 5 and its replacement with a provision that the proceedings are considered to be completed without the need for any decision to be adopted by the lead authority, however, it should be stated that the proceedings have been completed in writing.

	(b) whether to open an ex officio investigation under paragraph 1d. 1c. Where, within one month, none of the other supervisory authorities concerned have objected to the draft decision under paragraph 1b or the Board confirms the amicable settlement in the procedure under Article 65(1), point (a) of Regulation (EU) 2016/679, the complaint shall be deemed withdrawn and the settlement shall become valid. 1d. An amicable settlement does not prevent the lead supervisory authority from conducting an ex officio investigation in the same matter. It may open an ex officio investigation instead, in particular where: (a) the party under investigation is a repeat offender; (b) the party under investigation has been the subject of a large number of other amicable settlements; (c) the broad subject matter of the complaint concerns a large number of data subjects other than the complainant, is of long duration, or is of serious nature; or (d) the exercise of powers is otherwise required to ensure effective, proportionate and dissuasive enforcement of Regulation (EU) 2016/679.	<u>the complaint was lodged, prior to the possible transmission of the complaint to the lead supervisory authority, or the lead supervisory authority to which the complaint has been transmitted where applicable, determines that an amicable settlement to the complaint has been found and that the issues raised by the complainant have been dealt with in a satisfactory manner, provided that such settlement is allowed under the supervisory authority's national law and results in the termination of the alleged infringement of Regulation (EU) 2016/679.</u> 2. <u>The early resolution of a complaint pursuant to paragraph 1 (a) may only apply when:</u> a) <u>the supervisory authority with which the complaint was lodged has obtained supporting evidence that the controller or processor has already complied with the request of the complainant and that</u>	
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		<u>the infringements of Regulation (EU) 2016/679 are terminated, the supervisory authority has documented and communicated this to the complainant, using clear and plain language, and</u> <u>b) given that the complainant's request have been addressed in a satisfactory manner for the complainant, the supervisory authority can consider that the object of the complaint becomes devoid of purpose.</u> <u>3. The early resolution of a complaint pursuant to paragraph 1 (b) may only apply when:</u> <u>a) the supervisory authority has documented and communicated the proposed settlement to the complainant, using clear and plain language, to inform the complainant about the nature and consequences of the proposed settlement, and</u> <u>b) the complainant does not object to the</u>	
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amicable settlement proposed within four weeks after having received the proposed settlement. The complainant may request an extension of two weeks to object to the proposed settlement. In the absence of objection by the complainant within four or six weeks, as the case may be, the proposed settlement is deemed to have been accepted, and therefore the complaint becomes devoid of purpose.

~~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~~

4. Where the supervisory authority with which the complaint was lodged considers that a complaint can be resolved through a

		<u>procedure allowing for its early resolution in accordance with paragraph 1 it shall inform the assumed lead supervisory authority about the resolution and take into account any views that might be submitted.</u> 5. <u>Where the lead supervisory authority considers that a complaint can be resolved through a procedure allowing for its early resolution in accordance with paragraph 1 b), it shall submit a draft decision to the concerned supervisory authorities in accordance with Article 60 of Regulation (EU) 2016/679, with a view to adopting a final decision in accordance with Article 60(7) of Regulation (EU) 2016/679 finding that the complaint, or part of the complaint, has been resolved by the lead supervisory authority and that the handling of the complaint will be terminated.</u>	
	Article 5a Request for an ex officio procedure 1. Where it considers that Regulation (EU) 2016/679 may be violated and data subjects in the territory of its Member State are affected, any supervisory authority concerned may request an ex officio procedure by submitting a written request for a discretionary action pursuant to paragraph 2		

to the lead supervisory authority. Such a request shall contain at least:

- (a) a declaration to be a supervisory authority concerned, and
- (b) a summary of key issues pursuant to Article 9.

2. Within three weeks, the assumed lead supervisory authority shall:

- (a) inform the supervisory authority concerned that it has opened an ex officio procedure;
- (b) inform the supervisory authority concerned that Article 56(2) of Regulation (EU) 2016/679 applies to the case and that in accordance with Article 56(3) of Regulation (EU) 2016/679 the lead supervisory authority does not intend to handle the case itself; or
- (c) reject the request, if it takes the view that it is not the lead supervisory authority or there is no prima facie violation of Regulation (EU) 2016/679.

In the case referred to in point (a) of this paragraph, the supervisory authority concerned may submit to the lead supervisory authority a draft decision pursuant to Article 56(4) of Regulation (EU) 2016/679.

In the cases referred to in point (b) and (c) of this paragraph, the supervisory authority concerned may resubmit an amended request for an ex officio procedure, or request a determination on the opening of the procedure by the Board in accordance with Article 26a(1).

3. Where the lead supervisory authority opens an ex officio procedure, it shall deliver a draft decision pursuant to Article 60(3) of Regulation (EU) 2016/679 without delay, but no later than nine months from the receipt of the request pursuant to paragraph 1. This deadline may exceptionally be extended by:

- (a) eight weeks when comments under Article

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	9(3) are submitted against a summary of key issues or an updated summary of key issues; (b) eight weeks where the lead supervisory authority intends to issue fines or other penalties; (c) the period of time between a reference under Article 26a and the decision by the Board; (d) the period of any prolongation permitted by the Board under Article 26a(3).		
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.	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.	<i>Article 6 Translations</i> 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	We support the deletion of Article 6 which is provided in both the Council and Parliament versions.

		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 the Regulation (EU) 2016/679	Chapter III Cooperation under Article 60 of the Regulation (EU) 2016/679 <u>and with other relevant authorities</u>	Chapter III Cooperation under Article 60 of the Regulation (EU) 2016/679	
Section 1 Reaching consensus within the meaning of Article 60(1) of the Regulation (EU) 2016/679	Section 1 Reaching consensus within the meaning of Article 60(1) of the Regulation (EU) 2016/679	SECTION 1 <u>General principles of cooperation</u>	
		<u>Article 6bis</u> <u>Application of enhanced cooperation procedures</u> 1. <u>Supervisory authorities shall cooperate in accordance with the provisions of this Chapter in order to enhance cooperation procedures under Article 60 of Regulation (EU) 2016/679.</u> 2. <u>Where the lead supervisory authority considers that, on the basis of the characteristics of a case and previous decisions on similar cases,—there is no need to trigger enhanced cooperation procedures between supervisory authorities provided for under Chapter III of this Regulation, the lead supervisory authority may not apply the procedures</u>	Maintaining the previously raised comments on the Council's proposal regarding Article 6bis, we agree with its removal/non-inclusion – as proposed by the EP.

pursuant to Chapter III of this Regulation and continue to cooperate with supervisory authorities concerned under Article 60 of Regulation (EU) 2016/679. The lead supervisory authority shall inform the supervisory authorities concerned thereof, providing the relevant information on the characteristics of the case and the relevant previous decisions taken into consideration for this assessment, no later than within six weeks from the transmission of a complaint in accordance to Article 3, paragraph 4, of this Regulation. In such a case, the right to be heard of the parties under investigation and/or of the complainant shall be ensured mutatis mutandis as provided in Section II and Article 14 and 17 of this Regulation.

3. Where any of the supervisory authorities concerned objects to the assessment made by the lead supervisory authority pursuant to paragraph 2, within two weeks after having been notified of it, the provisions of Chapter III of this Regulation shall apply.

4. Chapter III does not apply for cross-border processing

		<u>cases handled pursuant to Article 56, paragraph 2 of Regulation (EU) 2016/679.</u> <u>5. Articles 9 to 15 of this Regulation do not apply to complaint-based cases resolved pursuant to Article 5 of this Regulation.</u>	
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 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 7 <i>Cooperation between supervisory authorities</i> 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 cooperation between supervisory authorities and are not intended to confer rights on individuals or the parties under investigation. are do	We agree with the EP's proposal.
Article 8 Relevant information within the meaning of Article 60(1) and (3) of Regulation (EU) 2016/679 1. The lead supervisory authority shall regularly update the other supervisory authorities concerned about the investigation and provide the other supervisory authorities concerned, at the earliest convenience, with all relevant information once available.	Article 8 Relevant information within the meaning of Article 60(1) and (3) of Regulation (EU) 2016/679 1. The lead supervisory authority shall regularly update the other supervisory authorities concerned about the investigation and provide the other supervisory authorities concerned, at the earliest convenience, instant, unrestricted and continuous remote access to the full joint case file	Article 8 <i>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</i> 1. The lead supervisory authority shall regularly update the other supervisory authorities concerned about the	The EP's proposal does not raise objections, we can agree with it.

2. Relevant information within the meaning of Article 60(1) and (3) of Regulation (EU) 2016/679 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; (c) information of the use of other investigative powers referred to in Article 58(1) of Regulation (EU) 2016/679; (d) in the case of envisaged rejection of complaint, the lead supervisory authority's reasons for rejection of the complaint; (e) summary of key issues in an investigation in accordance with Article 9; (f) information concerning steps aiming to establish an infringement of Regulation (EU) 2016/679 prior to the preparation of preliminary findings; (g) preliminary findings; (h) the response of the parties under investigation to the preliminary findings; (i) the views of the complainant on the preliminary findings; (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.	, and shall include in the joint case file all relevant information, in particular documents, submissions, memos and other information related to the case within one week from producing or receiving them—once available. 2. The lead supervisory authority shall actively provide and notify the other supervisory authorities concerned and, where necessary for dispute resolution under Article 65 of Regulation (EU) 2016/679, the Board, with Relevant information within the meaning of Article 60(1) and (3) of that Regulation (EU) 2016/679, within one week from producing or receiving it. This information shall—include—cover information on major steps in the procedure, including, where applicable: (a) information on the opening of an ex officio investigation of an alleged infringement of Regulation (EU) 2016/679 or of a complaints procedure; (b) requests for information pursuant to Article 58(1), point (e) of Regulation (EU) 2016/679; (c) information of the use of other investigative powers referred to in Article 58(1) of Regulation (EU) 2016/679; (d) in the case of envisaged rejection of complaint, the lead supervisory authority's reasons for rejection of the complaint; (e) the issuing or updating of the summary of key issues in an investigation in accordance with Article 9; (ea) any comments to a summary of key issues in accordance with Article 9(3); (f) information concerning steps 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 (g) preliminary findings;	investigation and provide the other supervisory authorities concerned, at the earliest convenience, with all relevant information once as soon as it becomes available. 2. <u>In the course of the investigation, the lead supervisory authority and the supervisory authorities concerned shall exchange</u> rRelevant information within the meaning of Article 60(1) and (3) of Regulation (EU) 2016/679, <u>which</u> shall include, where applicable <u>and as soon as available:</u> (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 <u>and related documents resulting from these requests;</u> (c) information of the use of other investigative powers referred to in Article 58(1) of Regulation (EU) 2016/679 <u>and related documents resulting from the exercise of these powers;</u> (d) in the case of envisaged rejection of complaint,
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	(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 applicable, other aspects of the investigation on which formal written submissions 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) any draft decision in accordance with Article 60(3) of Regulation (EU) 2016/679 or revised draft decision in accordance with Article 60(5) of Regulation (EU) 2016/679; (kb) any relevant and reasoned objections in accordance with Article 60(4) of Regulation (EU) 2016/679; (kc) any judicial remedy brought during a procedure under Article 60 of Regulation (EU) 2016/679 or against a decision under Article 60(7) to (9) of Regulation (EU) 2016/679.	the lead supervisory authority's reasons for rejection of the complaint; <u>(dd) the possible early resolution of the complaint pursuant to Article 5 of this Regulation;</u> (e) summary of key issues in an investigation <u>and related comments</u> in accordance with Article 9; <u>(ee) information on the scope of investigation, including developments or findings which may lead to the modification of the scope of investigation or the initiation of a new investigation;</u> (f) information concerning steps <u>and legal analysis</u> aiming to establish an infringement of Regulation (EU) 2016/679 prior to the preparation of preliminary findings; (g) preliminary findings; (h) the response of the parties under investigation to the preliminary findings; (i) the views of the complainant on the <u>non-confidential version of the</u> preliminary	
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		findings; (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; <u>(l) any other information deemed useful and relevant for the purpose of the investigation.</u> <u>3. 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 referred to in Article 9.</u>	
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. 2. The summary of key issues shall	Article 9 Summary of key issues 1. Once Within four weeks after having received a complaint, or a request to open an ex officio procedure, the lead supervisory authority has formed a preliminary view on the main issues in an investigation, it shall draft a summary of key issues	<i>Article 9</i> <i>Summary of key issues</i> 1. Once the lead supervisory authority has <u>sufficient elements to</u> formed a preliminary view on the main issues in an investigation, it shall draft a summary of key	The EP's proposal does not raise objections.

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 be investigated; (c) identification of complex legal and technological assessments which are relevant for preliminary orientation of their assessment; (d) preliminary identification of potential corrective measure(s). 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. 4. Comments provided pursuant to paragraph 3 shall meet the following requirements: (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	issues that presumably need to be determined in order to decide the case, for the purpose of cooperation under Article 60(1) of Regulation (EU) 2016/679, and provide this summary to the supervisory authorities concerned. The summary shall be drafted in an impartial way, taking into account any diverging facts and arguments. When transferring a case to the lead supervisory authority pursuant to Article 3(2), point (c), point (i), the concerned supervisory authority may provide a draft of a summary of key issues, which is not binding on 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 be investigated, and, where applicable, an indication of whether they appear to have been infringed; (c) identification of complex legal and technological assessments which are relevant for preliminary orientation of their assessments, dealing with all relevant views as expressed by parties when the summary is drafted, and including relevant European case law, as well as guidelines, recommendations and best practices issued by the Board; (d) preliminary identification of potential corrective measure(s). 2a. The summary of key issues shall be updated by the lead supervisory authority without undue delay to reflect any factual or legal changes that emerge during the course of the procedure.	issues for the purpose of cooperation under Article 60(1) of Regulation (EU) 2016/679, <u>which shall include the following elements:</u> 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) <u>where applicable,</u> identification of complex legal, <u>factual</u> and/or technological assessments <u>issues</u> which are relevant for preliminary orientation of their assessment; (d) <u>where applicable,</u> preliminary identification of potential corrective measure(s). <u>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</u>
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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.

3. The supervisory authorities concerned may provide **factual or legal** comments on the summary of key issues. Such comments must be provided within four weeks of receipt of the summary of key issues **or any update of it, in accordance with Article 60 of Regulation (EU) 2016/679.**

4. ~~Comments provided pursuant to paragraph 3 shall meet the following requirements:~~

~~(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 **which challenge the summary of key issues or raise other important factual or legal questions** shall be considered non-contentious cases. In such cases, the ~~preliminary findings~~ **deadline to issue a draft decision** referred to in Article 14 **4(1b)** shall be communicated to the parties under investigation within 9 ~~3~~ months of the expiry of the deadline provided for in paragraph 3 of this Article.

pursuant to Article 3, paragraph 4a of this Regulation. The lead supervisory authority may extend by another three months that period on account of the complexity of the case.

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 another two weeks on account of the complexity of the case upon request of the supervisory authorities concerned or of the lead supervisory authority.**

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 four weeks on account of the complexity of the case.**

5. **Where the lead supervisory authority is required by national law to engage in**

subsequent domestic procedure related to the same case, the summary of key issues shall be prepared again if the lead supervisory authority intends to deviate from previous consensus on the case.

4. ~~Comments provided pursuant to paragraph 3 shall meet the following requirements:~~
 - ~~(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.	
	Section 2 <u>Cooperation with other relevant authorities</u>		
Article 10 Use of means to reach consensus 1. A supervisory authority concerned shall make a request to the lead supervisory authority under Article 61 of Regulation (EU) 2016/679, 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 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 legal assessments identified by the lead supervisory authority pursuant to Article 9(2), point (c); (c) preliminary orientation in relation to complex technological assessments identified by the lead supervisory authority pursuant to Article 9(2), point	Article 10 Use of means to reach consensus 1. A supervisory authority concerned shall make a request to the lead supervisory authority under Article 61 of Regulation (EU) 2016/679, or 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 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 factual or legal assessments identified by the lead supervisory authority pursuant to Article 9(2), point (c); (c) preliminary orientation in relation to complex technological assessments identified by the lead supervisory authority pursuant to Article 9(2), point (c). (ca) preliminary identification of potential corrective measure(s) pursuant to Article 9(2), point	Article 10 Use of means to reach consensus <u>within within the meaning of Article 60(1) of Regulation (EU) 2016/679</u> <u>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.</u> <u>1a. In cases where none of the supervisory authorities concerned provided comments under Article 9, paragraph 3, of this</u>	It seems that the EC's proposal is still the best and clearest.

(c). 2. The request under paragraph 1 shall be made within two months of the expiry of the period referred to in Article 9(3). 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, there is no consensus between the lead supervisory authority and one or more concerned supervisory authorities on the matter 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 referred to in Article	2. The request under paragraph 1 shall be made within two months of the expiry of the period referred to in Article 9(3). 3. In cases not falling under Article 9(6) of this Regulation, the lead supervisory authority shall investigate facts relevant for diverging views and engage, making its best effort, 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, there is no within four weeks after the expiry of the deadlines for comments, the procedure provided for in paragraph 3 of this Article fails to generate consensus between the lead supervisory authority and one or more concerned supervisory authorities on the matters referred to in Article 9(2), point (b), of this Regulation, the lead supervisory authority or a supervisory authority concerned shall request an urgent binding decision a procedural determination of the Board under Article 66(3) 26a of this 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 a procedural determination of the Board pursuant to paragraph 4 of this Article, the lead requires	<u>Regulation, or in cases where consensus was found following comments received, the preliminary findings referred to in Article 14 shall be communicated to the parties under investigation within six months of the expiry of the deadline provided for in Article 9, paragraph 3, of this Regulation. In an exceptional case, that period may be extended once on account of the complexity of the case. In such a case, the lead supervisory authority shall notify the supervisory authorities concerned and set out the duration of and reasons for the extension.</u> 1b. <u>In cases where a supervisory authority concerned disagrees with the lead supervisory authority and in the absence of consensus, that supervisory authority concerned shall 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</u>	
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9(2), points (a) and (b); (b) the comments of the supervisory authority concerned that disagrees with the lead supervisory authority's preliminary identification of the scope of the investigation. 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.	ting supervisory authority shall provide all of the following: (a) the documents relevant information referred to in Article 9(2), points (a) and (b) including any updates when they occur; (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 or the factual or legal assessment of the elements of the summary of key issues referred to in Article 9(2). (ba) access to the joint case file. 5a. The Board may request the supervisory authorities to provide other documents or information, as it deems appropriate in the particular case. 6. The Board shall adopt an urgent binding decision on the scope of the investigation summary of key issues or on extending the period referred to in paragraph 4, in accordance with Article 26a, on the basis of the comments of the supervisory authorities concerned and the position of the lead supervisory authority on those comments all documents received.	<u>to reach consensus</u> 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 legal assessments — issues identified by the lead supervisory authority pursuant to Article 9(2), point (c), where applicable; (c) preliminary orientation in relation to complex the technological assessments — issues identified by the lead supervisory authority pursuant to Article 9(2), point (c), where applicable. 2. The request under paragraph 1 shall be made within two one months of the expiry of the period referred to in Article 9(34). <u>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</u>	
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		<u>supervisory authority should respond to the request within one month.</u> 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, there is no consensus between the lead supervisory authority and one or more concerned supervisory authorities on the matter referred to in Article 9(21), point (b), of this Regulation, the lead supervisory authority shall a request for an urgent binding decision of the Board under Article 66(3) of Regulation (EU) 2016/679 shall be submitted by any supervisory authority concerned or the lead	
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supervisory authority. In ~~those~~ cases, 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~~ **requesting** supervisory authority shall provide all of the following:

(a) the documents referred to in Article 9(21), ~~points (a) and (b);~~

(b) the comments of the supervisory authority concerned that disagrees 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.

The Board shall adopt an urgent binding decision on the scope of the investigation on the

		basis <u>of all the documents received</u>, of the comments of the supervisory authorities concerned and the position of the lead supervisory authority on those comments. <u>Following the implementation of the urgent binding decision referred to under paragraph 6 by the Board, the lead supervisory authority shall continue to cooperate with the supervisory authorities concerned pursuant to Article 60 of Regulation (EU) 2016/679 and continue handling the case. The preliminary findings referred to in Article 14 shall be communicated to the parties under investigation within six months. In an exceptional case, that period may be extended once on account of the complexity of the case. In such a case, the lead supervisory authority shall notify the concerned supervisory authority and set out the duration of and reasons for the extension.</u>	
	Article 10a Cooperation with other relevant authorities Supervisory authorities shall strive to communicate non-personal information obtained in the context of the procedures set out in this Regulation to national and Union supervisory authorities competent in data protection and other areas, including		The EP's proposal does not raise doubts

	competition, financial services, energy, telecommunications, consumer protection, digital services, or artificial intelligence supervisory authorities, where the information is deemed relevant to the tasks and duties of those authorities, in particular for opening administrative procedures and investigations into possible violations of legislation under their competences. Information can be only used for the purposes of which it was gathered. However, that does not preclude the supervisory authority to initiate other proceedings based on that information or to share it with other authorities for that purpose.		
Section 2 Full or Partial Rejection of Complaints	Section 2 Full or Partial Rejection of Complaints (Moved after article 9)	Section 2 Full or partial rejection of complaints	
Article 11 Hearing of complainant prior to full or partial rejection of a complaint 1. Following the procedure provided for in Article 9 and 10, the lead supervisory authority shall provide the supervisory authority with which the complaint was lodged with the reasons for its preliminary view that the complaint should be fully or partially rejected. 2. The supervisory authority with which the complaint was lodged shall inform 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 supervisory authority with which the	Article 11 Hearing of complainant prior to full or partial rejection of a complaint 1. Following the procedure provided for in Article 9 and 10, the lead supervisory authority shall provide the supervisory authority with which the complaint was lodged with the reasons for its preliminary view that the complaint should be fully or partially rejected. 2. The supervisory authority with which the complaint was lodged shall inform 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 supervisory authority with which the complaint was lodged shall inform the complainant of the consequences of the failure to make h	Article 11 Hearing of complainant prior to <u>Procedure for dismissal or full or partial rejection of a complaint within the meaning of Article 60(8) and Article 60(9) of Regulation EU 2016/679</u> 1. <u>Prior to submitting a draft decision pursuant to Article 60(3) of Regulation (EU) 2016/679,</u> Following the procedure provided for in Article 9 and 10, the lead supervisory authority shall provide the supervisory authority with which the complaint was lodged with the reasons for its preliminary view that the complaint should be <u>dismissed or</u> fully or partially rejected.	

complaint was lodged shall inform the complainant of the consequences of the failure to make her or his views known.

3. If the complainant fails to make known her or his views within the time-limit set by the supervisory authority with which the complaint was lodged, the complaint shall be deemed to have been withdrawn.

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.

~~er or his views known.~~

~~3. If the complainant fails to make known her or his views within the time-limit set by the supervisory authority with which the complaint was lodged, the complaint shall be deemed to have been withdrawn.~~

~~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.~~

2. The supervisory authority with which the complaint was lodged shall inform the complainant of the reasons for the intended **dismissal or 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 supervisory authority with which the complaint was lodged shall **provide the complainant with the possibility to make her or his views known and shall** inform the complainant of the consequences of the failure to make her or his views known. **The complainant shall make his or her views known in writing and within four weeks upon receiving the reasons for the intended dismissal or full or partial rejection of the complaint. Upon request of the complainant, the period shall be extended by two weeks on account of the complexity of the case.**
3. **The supervisory authority with which the complaint was lodged shall without delay transmit any views made by the complainant within the time-limit of four or six weeks, as the case may be, to the lead supervisory authority. If the complainant**

fails to make known her or his views within the time-limit set by the supervisory authority with which the complaint was lodged, the complaint shall be deemed to have been withdrawn.

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 **dismissed or** fully or partially rejected, the **lead supervisory authority, in cooperation with 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 5 concludes that the complaint should be partially rejected, the lead supervisory authority shall**

		<u>continue its investigation in cooperation with the concerned supervisory authorities on the part of the complaint which remains to be investigated.</u>	
Article 12 Revised draft decision fully or partially rejecting a complaint 1. Where the lead supervisory authority considers that the revised draft decision within the meaning of Article 60(5) of Regulation (EU) 2016/679 raises elements on which the complainant should have the opportunity to make her or his views known, the supervisory authority with which the complaint was 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. 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 12 Revised draft decision fully or partially rejecting a complaint 1. Where the lead supervisory authority considers that the revised draft decision within the meaning of Article 60(5) of Regulation (EU) 2016/679 raises elements on which the complainant should have the opportunity to make her or his views known, the supervisory authority with which the complaint was 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. 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 12 Revised draft decision <u>dismissing or fully or partially rejecting a complaint</u> 1. Where the lead supervisory authority considers that the revised draft decision within the meaning of Article 60(5) of Regulation (EU) 2016/679 raises <u>new</u> elements on which the complainant should have the opportunity to make her or his views known, the supervisory authority with which the complaint was 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, <u>following the same procedure as provided under Article 11 of this Regulation.</u> 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	Article 13	Article 13	

Decision fully or partially rejecting a complaint When adopting a decision fully or partially rejecting a complaint in accordance with Article 60(8) 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.	Decision fully or partially rejecting a complaint When adopting a decision fully or partially rejecting a complaint in accordance with Article 60(8) 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.	Decision <u>dismissing or</u> fully or partially rejecting a complaint 1. When adopting a decision <u>dismissing or</u> fully or partially rejecting a complaint in accordance with Articles 60(8) <u>or 60(9)</u> 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. 2. <u>The lead supervisory authority shall inform the controller of the decision adopted pursuant to Article 60(9) of Regulation (EU) 2016/679.</u>	
Section 3 Decisions Addressed to Controllers and Processors Article 14 Preliminary findings and reply 1. 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 present allegations raised in an exhaustive and sufficiently clear way to enable the parties under investigation to take cognisance of	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 present allegations raised in an exhaustive and sufficiently clear way to enable the parties under investigation to take cognisance of the conduct	Section 3 Decisions addressed to controllers and processors <i>Article 14</i> <i>Preliminary findings and reply</i> 1. 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 <u>include the main findings of</u>	The EP's proposal does not raise major objections.

the conduct investigated by the lead supervisory authority. In particular, they must set out clearly all the facts 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 corrective measures the lead supervisory authority intends to use. 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 fine. In particular, the lead supervisory authority shall list the essential facts and matters of law which may result in the imposition of the fine and the elements listed in Article 83(2) of Regulation (EU) 2016/679, including any aggravating or mitigating factors it will take into account.

3. The lead supervisory authority shall notify preliminary findings 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 time-limit within which these parties may provide their views in writing. The lead supervisory authority shall not be obliged to take into account written views received after the expiry of that time-limit.

5. When notifying the preliminary

investigated by the lead supervisory authority. In particular, they ~~must~~ **shall** set out clearly all the facts, **including listing all the evidence relied upon**, and the entire legal assessment raised against the parties under investigation, so that they **are heard and** 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 **the corrective measures that are considered by** the lead supervisory authority ~~intends to use~~. Where the lead supervisory authority ~~intends to impose~~ **considered imposing** a fine, it shall list in the preliminary findings the relevant elements on which it ~~relies~~ **intends to rely in deciding whether to impose an administrative fine and** while calculating the fine. In particular, the lead supervisory authority shall list the essential facts and matters of law which may result in the imposition of the fine and the elements listed in Article 83(2) of Regulation (EU) 2016/679, including any aggravating or mitigating factors it will take into account.

3. The lead supervisory authority shall notify preliminary findings to each of the parties under investigation **that may be subject to the exercise of a corrective power, as well as to the supervisory authority with which the complaint was lodged and the supervisory authorities concerned. The supervisory authority with which the complaint was lodged shall notify preliminary findings to the complainant.**

4. ~~The lead supervisory authority shall, when notifying the preliminary findings to the parties under investigation, set a time-limit within which~~

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 set out clearly all the facts 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,** corrective measures the lead supervisory authority ~~intends to use~~ **considers using**.

Where the lead supervisory authority, **based on the information available at that stage and without prejudice to the views of the parties,** ~~intends to impose~~ **considers imposing an administrative fine in accordance with Article 83 of Regulation (EU) 2016/679, the lead supervisory authority shall list in 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 20. 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.

~~these parties may provide their views in writing. The lead supervisory authority shall not be obliged to take into account written views received after the expiry of that time limit. 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 20. 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 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.~~

findings the main legal and factual elements, which 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 the it shall list in the preliminary findings the relevant elements on which it relies while calculating the fine. In particular, the lead supervisory authority shall list the essential facts and matters of law which may result in the imposition of the fine and the elements listed in Article 83(2) of Regulation (EU) 2016/679, including any aggravating or mitigating factors it will take into account.

2bis. 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 authority concerned, the period shall be extended by another two weeks on account of the complexity of the case.

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 time-limit **of four weeks** within which these parties may provide their views in writing, **or hold a hearing within the same time-limit in order to hear the views of the parties orally. Upon request of the parties under investigation, the period shall be extended by another two weeks on account of the complexity of the case.** The lead supervisory authority ~~shall not be obliged to~~**may** take into account written views received after the expiry of that time-limit, **in accordance with national law.**
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 20.
6. The parties under investigation may, in their written **or oral** 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.

7. The lead supervisory authority shall submit a draft decision in accordance with Article 60(3) GDPR to the other supervisory authorities concerned within three months from the receiving of the views of the parties under investigations and/or the complainant. In an exceptional case, that period may be extended once on account of the complexity of the case. In such a case, the lead supervisory authority shall notify the concerned supervisory authority and set out the duration of and reasons for the extension.
8. Where the lead supervisory authority is required by national law to engage in subsequent domestic procedure related to the same case, the preliminary findings shall be prepared again if the lead supervisory authority intends to deviate from previous consensus on the case.

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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 lodged shall provide the complainant with a non-confidential version of the preliminary findings and set a time-limit within which the complainant may make known its views in writing. 2. Paragraph 1 shall apply also when a supervisory authority, where appropriate, treats several complaints jointly, splits the complaints in several parts or in any other way exercises its discretion concerning the scope of the investigation as set out in preliminary findings. 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	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 lodged shall provide the complainant with a non-confidential version of the preliminary findings and set a time-limit within which the complainant may make known its views in writing. 2. Paragraph 1 shall apply also when a supervisory authority, where appropriate, treats several complaints jointly, splits the complaints in several parts or in any other way exercises its discretion concerning the scope of the investigation as set out in preliminary findings. 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. Before receiving the non-confidential version of preliminary findings and any documents provided pursuant to paragraph 1. 5.	<i>Article 15</i> <i>Transmission of preliminary findings to complainants</i> 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 lodged shall provide the complainant with a non-confidential version of the preliminary findings, <u>in accordance with Article 20 and 21</u>, and set a time-limit <u>of four weeks</u> within which the complainant may make known its views in writing. <u>Upon request of the complainant, the period shall be extended by another two weeks on account of the complexity of the case.</u> <u>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.</u> 2. Paragraph 1 shall apply also when a supervisory authority, where appropriate, treats several complaints jointly, splits the complaints in several parts or in any other way exercises its discretion concerning the scope of the	We stand by the Commission's proposal and if it is not adopted - by the Council's compromise.
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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.	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.	investigation as set out in preliminary findings. 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
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		those findings for purposes other than the concrete investigation in which those findings were issued.	
Article 16 Adoption of final decision 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 to the draft decision within the periods referred to in Article 60(4) and (5) of Regulation (EU) 2016/679, the lead supervisory authority shall adopt and notify its decision under Article 60(7) 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.	Article 16 Submission of draft decisions, revised draft decisions and 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 to the draft decision within the periods referred to in Article 60(4) and (5) of Regulation (EU) 2016/679, the lead supervisory authority shall, within four weeks from the end of the periods referred to in Article 60(4) and (5) of Regulation 2016/679 , adopt and notify its decision under Article 60(7) and Article 60(9) 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. 1a. Where a supervisory authority concerned has objected to the draft decision within the period referred to in Article 60(4) of Regulation (EU) 2016/679, and the lead supervisory authority intends to follow that objection, the lead supervisory authority shall, within four weeks, submit a revised draft decision pursuant to Article 60(5) of that Regulation. 1b. Where a supervisory authority concerned has objected to the draft decision within the period referred to in Article 60(4) of Regulation (EU) 2016/679, and the lead supervisory authority does not follow the relevant and reasoned	Article 16 <i>Adoption of final decision</i> 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 to the draft decision within the periods referred to in Article 60(4) and (5) of Regulation (EU) 2016/679, the lead supervisory authority shall adopt and notify, <u>within one month</u> , its decision under Article 60(7) 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. <u>The supervisory authority with which the complaint was lodged shall inform the complainant of the decision.</u> 2. Where the lead supervisory authority and the supervisory authorities	Both the Commission's initial proposal and the Council's compromise deserve to be taken into account.

objection or is of the opinion that the objection is not relevant or reasoned, the lead supervisory authority shall, within four weeks, submit the matter to the consistency mechanism referred to in Article 63, in accordance with Article 60(4) of that Regulation.

1c. Without prejudice to additional requirements under national law, any draft decision or final decision under Article 60(3), (5) or (7) to (9) of Regulation (EU) 2016/679 shall be issued in writing, using a short, concise, transparent, intelligible form and clear and plain language. It shall be drafted in an impartial way, taking into account any diverging evidence and views of the parties, and shall at least contain the following elements:

(a) the name of the supervisory authority which issued the decision;
(b) the date of issuing the decision;
(c) an impartial summary of the relevant facts of the case and their source;
(d) the legal grounds for the decision;
(e) the exercised corrective powers, penalties or other measures; and
(f) information on the right to an effective judicial remedy under Article 78 of Regulation (EU) 2016/679 and any applicable national procedural law.

1d. In the event where the legally binding decision is to be issued by the supervisory authority with which the complaint has been lodged in accordance with Article 60(8) or (9) of

Regulation (EU) 2016/679, the lead supervisory authority shall ensure that the decision contains all elements necessary under the applicable national procedural law of the supervisory authority concerned. The supervisory authority concerned with which

concerned agree to dismiss or reject parts of a complaint and act on other parts of that complaint, a separate decision shall be adopted and notified to the main or single establishment of the controller or the processor and the complainant, following the article 60 (9) of Regulation (EU) 2016/679.

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	the complaint has been lodged shall assist the lead supervisory authority in drafting the decision in such a manner. 1e. Any draft decision or final decision shall only rely on factual findings made on the basis of documents or other evidence, on which the parties under investigation had the opportunity to make their views known. 1f. The information provided to the parties under Article 60(7) to (9) of Regulation (EU) 2016/679 shall include a copy of the legally binding decision, and information about a judicial remedy available in accordance with Article 78 of Regulation (EU) 2016/679. 1g. Supervisory authorities shall publish all legally binding decisions they issue without undue delay, but no later than three months after adoption, unless the new decisions do not materially depart from previously published decisions. In accordance with applicable national law, supervisory authorities may redact party names, any other information that may allow the identification of parties, and other information that is protected under applicable law.		
Article 17 Right to be heard in relation to revised draft decision 1. Where the lead supervisory authority considers that the revised draft decision within the meaning of Article 60(5) of Regulation (EU) 2016/679 raises 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	Article 17 Right to be heard in relation to revised draft decision 1. Where the lead supervisory authority considers that the revised draft decision within the meaning of Article 60(5) of Regulation (EU) 2016/679 raises 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	Article 17 <i>Right to be heard in relation to revised draft decision</i> 1. Where the lead supervisory authority considers that the revised draft decision within the meaning of Article 60(5) 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	We support the Council's proposal.

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 time-limit within which the parties under investigation may make known their views.	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 time-limit within which the parties under investigation may make known their views.	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 time-limit <u>of four weeks</u> within which the parties under investigation may make known their views. <u>Upon request of the parties under investigation, the period shall be extended by two week on account of the complexity of the case.</u> <u>2bis. The lead supervisory authority shall inform the supervisory authorities concerned of the views made by the parties under investigation.</u>	
Section 4 Relevant and Reasoned Objections	Section 4 Relevant and Reasoned Objections	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 elements included in the draft decision; and (b) not change 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	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 elements included in the draft decision, or on the evidence the joint case file or on any additional evidence submitted together with the relevant and reasoned objection; and (b) not change the scope of the allegations by raising points amounting to identification of a additional allegations of infringement	<i>Article 18</i> <i>Relevant and reasoned objections</i> 1. Relevant and reasoned objections within the meaning of Article 4(24) of Regulation (EU) 2016/679 shall: (a) be based exclusively on factual <u>and legal</u> elements included in the draft decision, <u>taking into account the comments relating to</u>	The EP's proposal does not raise objections.

of the allegations raised. 2. The form and structure of relevant and reasoned objections shall meet all of the following requirements: (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; (c) 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.	of Regulation (EU) 2016/679 or changing the intrinsic nature case as defined in the latest version of the allegations raised summary of key issues; and (ba) clearly identify the elements of the draft decision that should be changed, including, when possible, the precise wording of the proposed change or a sufficiently precise description of the proposed change to the draft decision. 2. The form and structure of relevant and reasoned objections shall meet all of the following requirements: (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; (c) 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.	<u>the summary of key issues and the preliminary findings;</u> and (b) not change <u>concern the scope of the allegations the scope of an investigation on which consensus was found pursuant to Article 10(1a) or 10(3), or as defined in the binding decision of the Board adopted under Article 10 (6) when applicable, by raising points amounting to identification of additional allegations of infringement of Regulation (EU) 2016/679 or changing the intrinsic nature of the allegations raised.</u> <u>(c) not concern a draft decision adopted in accordance with the conditions pursuant to Article 5 of this Regulation.</u> 2. <u>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:</u> <u>- the lead supervisory</u>
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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 relevant and reasoned objections shall meet all of the following requirements:~~

~~(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;~~

~~(c) 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 and treatment of confidential information	Chapter IV Access to the administrative file and treatment of confidential information	Chapter IV Access to the administrative 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 documents which have been obtained, produced and/or assembled by the lead supervisory authority during the investigation. 2. In the course of investigation of an alleged infringement of Regulation (EU) 2016/679, the lead supervisory authority may return to the party from which they have been obtained documents which following a more detailed examination prove to be unrelated to the subject matter of the investigation. Upon return, these documents shall no longer constitute part of the administrative file. 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 documents and shall not be accessible to the parties under investigation or the complainant. 4. Access to relevant and reasoned objections pursuant to Article 60(4) of Regulation (EU) 2016/679 shall be	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 documents which have been obtained, produced and/or assembled by the lead supervisory authority during the investigation. 2. In the course of investigation of an alleged infringement of Regulation (EU) 2016/679, the lead supervisory authority may return to the party from which they have been obtained documents which following a more detailed examination prove to be unrelated to the subject matter of the investigation. Upon return, these documents shall no longer constitute part of the administrative file. 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 documents and shall not be accessible to the parties under investigation or the complainant. 4. Access to relevant and reasoned objections pursuant to Article 60(4) of Regulation (EU) 2016/679 shall be provided in accordance with Article 24.	<i>Article 19</i> <i>Content of the administrative file</i> 1. The administrative file in an investigation concerning an alleged infringement of Regulation (EU) 2016/679 consists of all <u>the</u> documents which have been obtained; <u>or</u> produced <u>by the concerned supervisory authorities and the lead supervisory authority</u> , and/or assembled by the lead supervisory authority during the investigation <u>procedure, including inculpatory and exculpatory documents. The administrative file shall not include internal communication within a supervisory authority or internal drafts.</u> 2. In the course of investigation of an alleged infringement of Regulation (EU) 2016/679, the lead supervisory authority may return to the party from which they have been obtained documents which following a more detailed examination prove to be unrelated to the subject matter of the investigation. Upon return,	We strongly support the retention of Article 19 as proposed by the Council. It is important that the case file does not include internal correspondence and working documents exchanged between the authorities.

provided in accordance with Article 24.		these documents shall no longer constitute part of the administrative file. 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 documents and shall not be accessible to the parties under investigation or the complainant. 4. Access to relevant and reasoned objections pursuant to Article 60(4) of Regulation (EU) 2016/679 shall be provided in accordance with Article 24.	
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	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	Article 20 Access to the administrative file and use of documents <u>by parties under investigation and the complainant</u> 1. <u>Upon request of the parties under investigation, or the complainant where the decision is liable to affect his or her interests adversely,</u> the lead supervisory authority shall grant access to the administrative file to the parties under investigation, <u>or the complainant,</u> enabling them to exercise their right to	As above - we strongly support the Council's proposal

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.	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.	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 shall only rely on documents cited in the preliminary findings or on <u>elements on</u> which the parties under investigation had the opportunity to make their views known. <u>3bis Correspondence, exchange of views and other information exchanged between supervisory authorities for the purpose of the investigation shall not be accessible to the parties under investigation, the complainant or third parties.</u> <u>3ter. 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</u>
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		<u>intends to adopt a revised draft decision shall only be provided by the lead supervisory authority where necessary to enable the parties under investigation or the complainant to express their views and defend their rights.</u> 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, information collected or obtained by a supervisory authority in cross-border cases under of Regulation (EU) 2016/679, including any document containing such information, shall not be communicated or made accessible by the supervisory authority in so far as it contains business secrets or other confidential information of any person. 2. Any information collected 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 under laws on public access to official documents as long as the proceedings are ongoing.	Article 21 Identification and protection of confidential information 1. Unless otherwise provided in this Regulation, information collected or obtained by a supervisory authority in cross-border cases under of Regulation (EU) 2016/679, including any document containing such information, shall not be communicated or made accessible by the supervisory authority in so far as it contains business secrets or other confidential information of any person. 2. Any information collected 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 under laws on public access to official documents as long as the proceedings are ongoing.	Article 21 Identification and protection of confidential information 1. Unless otherwise provided in this Regulation, <u>any</u> information collected, <u>produced</u> or obtained by a supervisory authority in cross-border cases under Regulation (EU) 2016/679, including any document containing such information, shall not be communicated or made accessible by the supervisory authority <u>to the parties under the investigation or to the complainant</u> in so far as it contains <u>business trade</u> secrets <u>as defined in directive (EU) 2016/943</u> or other confidential information <u>in</u>	As above - we support the Council's proposal. It is important that this article is not deleted.

long as the proceedings are ongoing. 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 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 shall provide a separate non-confidential version of the submission. 5. Without prejudice to paragraph 4, the lead supervisory authority 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 secrets or other confidential information belonging to them and to identify the parties for which these documents are considered to be confidential.	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 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 shall provide a separate non-confidential version of the submission. 5. Without prejudice to paragraph 4, the lead supervisory authority 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 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 time-limit for parties under investigation and any other party raising a confidentiality claim to: (a) substantiate their claims for business secrets and other confidential information for each individual document or part	<u>accordance with Union and Member State law</u> of any person. 2. Any information collected, <u>produced</u> or obtained by a supervisory authority in cross-border cases under Regulation (EU) 2016/679 <u>referred to in paragraph 1</u>, including any document containing such information, <u>shall not be disclosed, unless required by Union or Member State law</u>, is excluded from access requests under laws on public access to official documents as long as the proceedings are ongoing. 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
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6. The lead supervisory authority may set a time-limit for parties under investigation and any other party raising a confidentiality claim to: (a) substantiate their claims for business secrets and other confidential information for each individual document or part of document, statement, or part of statement; (b) provide a non-confidential version of the documents and statements, in which the business 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 supervisory authority may assume that the documents or statements concerned do not contain business secrets or other confidential information.	of document, statement, or part of statement; (b) provide a non-confidential version of the documents and statements, in which the business 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 supervisory authority may assume that the documents or statements concerned do not contain business secrets or other confidential information.	to the rights of defence of the parties under investigation with due regard for the confidentiality of the information. 4. An entity <u>A party under investigation, a complainant, or a third party</u> 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 <u>party under investigation, complainant, or third party</u> shall provide a separate non-confidential version of the submission. 5. Without prejudice to paragraph 4, the lead supervisory authority <u>to which the information is submitted</u> 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 <u>trade</u> 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 <u>to which the information is submitted</u> may <u>shall</u> set a time-limit for parties under
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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 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~~ 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.

7bis 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

		<u>paragraph 1, and shall inform the other supervisory authorities about the confidential nature of the information when transmitted.</u> <u>8. 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.</u>	
Chapter V Dispute Resolution	Chapter V Dispute Resolution	Chapter V Dispute resolution	
Article 22 Referral to dispute resolution under Article 65 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. 2. When referring the subject-matter to dispute resolution, 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 made in writing by the parties	Article 22 Referral to dispute resolution under Article 65(1), point (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, within four weeks from the receipt of all relevant and reasoned objections or from the lapse of the deadline pursuant to Article 60(4) of Regulation (EU) 2016/679. Relevant and reasoned objections that have been received after the deadline shall not be taken into consideration. 2. When referring the subject-matter to dispute resolution, the lead supervisory authority shall provide the Board with all of the following documents: (a) the draft decision or revised draft decision	Article 22 <i>Referral to dispute resolution under Article 65, <u>paragraph 1(a)</u>, of Regulation (EU) 2016/679</i> 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. <u>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-</u>	We support the Council's proposal.

under investigation, as the case may be, pursuant to Articles 14 and 17; (e) views made in writing by complainants, as the case may be, pursuant to Articles 11, 12, and 15; (f) the relevant and reasoned objections which were not followed by the lead supervisory authority; (g) the reasons on the basis of which the lead supervisory authority did not follow the relevant and reasoned objections or considered the objections not to be relevant or reasoned.

3. The Board shall within four weeks of receiving the documents listed in paragraph 2 identify retained relevant and reasoned objections.

subject to the relevant and reasoned objections; (aa) the summary of key issues; (b) a summary of the relevant facts, including the description of processing activities, the description of the controller's organisation and where the relevant decisions on the purposes and means of the processing of personal data are taken; (c) the preliminary findings; (d) ~~view-views~~ made in writing by the parties under investigation, as the case may be, pursuant to ~~Articles~~ **Article 14 and 17;** (e) ~~views made in writing by complainants, as the case may be, pursuant to Articles 11, 12, and 15;~~ (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 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;~~ **(ga) access to the joint case file.**

3. The Board shall **register the submission of a subject-matter to the dispute resolution mechanism** within ~~four~~ **two** weeks of receiving **all of** the documents listed in paragraph 2 ~~identify retained relevant and reasoned objections or~~ **it shall demand a resubmission that includes any missing information within another week. When registering the submission, the Board shall list and structure the disputes between supervisory authorities which form the scope of the procedure before the Board, and instantly provide them to all supervisory auth**

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 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 dispute resolution mechanism;**

(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 dispute resolution mechanism;**

(f) the relevant and reasoned

	orities. 3a. Once all information specified in paragraph 2 have been received, the Chair of the Board is empowered to request from the lead supervisory authority or the supervisory authorities concerned any additional information, documents or clarifications necessary for the Board to take a binding decision concerning all of the matters which are the subject of the relevant and reasoned objections. The authorities shall provide this additional information no later than one week after having received the request. 3b. The supervisory authorities concerned may, within two weeks after having been provided with the submission pursuant to paragraph 3, submit other relevant information that they have on that case which was not included in the objections, including but not limited to, facts and documentation related to their objection. 3c. The “referral of the subject-matter” pursuant to Article 65(2) of Regulation (EU) 2016/679 shall mean the moment when all of the documents referred to in Article 22(2) are available and translated in accordance with Article 2d. 3d. The prohibition provided for in Article 65(4) of Regulation (EU) 2016/679 for supervisory authorities to adopt a decision on the subject matter submitted to the Board during the periods referred to in Article 65(2) and (3) of Regulation (EU) 2016/679 shall also apply during the periods referred in paragraph 3 of this Article.	objections which were not followed <u>or rejected</u> by the lead supervisory authority <u>and the objections that the lead supervisory authority has rejected as being neither relevant nor reasoned</u>; (g) the reasons on the basis of which the lead supervisory authority did not follow the relevant and reasoned objections or considered the objections not to be relevant or reasoned. <u>2a. Where appropriate, the Board may request further documents from the lead supervisory authority, at least to the extent they relate to the subject matter submitted to the dispute resolution mechanism.</u> 3. The Board shall within four weeks of receiving the documents listed in paragraph 2 identify retained relevant and reasoned objections.	
Article 23 Registration in relation to a decision	Article 23 Registration in relation to a decision under Ar	Article 23 Registration in relation to a decision	We support the Council's proposal.

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 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.	<i>under Article 65(1), point (a), of Regulation (EU) 2016/679</i> <u>1. 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 <u>referred to in Article 22, paragraph 2 and 2a, and the retained relevant and reasoned objections:</u></u> (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. <u>2. As soon as the file is registered by the Chair of the Board, it shall be provided to the members of the Board.</u>	
Article 24 Statement of reasons prior to adoption of decision under Article 65(1), point (a), of Regulation (EU) 2016/679 1. Prior to adopting the binding decision	Article 24 Statement of reasons prior to adoption of decision under Article 65(1), point (a), of Regulation (EU) 2016/679 1.	<i>Article 24</i> <i>Statement of reasons prior to adoption of decision under Article 65(1), point (a), of Regulation (EU) 2016/679</i> 1. Prior to adopting the binding	We support the Council's proposal or the return to the Commission's initial proposal.

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. 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. 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. 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.	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. 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. 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. 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.	decision pursuant to Article 65(1), point (a), of Regulation (EU) 2016/679, <u>where the Board intends to adopt a decision requiring the lead supervisory authority to amend its draft decision or revised draft decision, the Chair of the Board shall, it shall assess whether the adoption of such decision relies on elements on which the parties under investigation and/or, in the case of full or partial rejection of a complaint, the complainant, have been provided with an opportunity to express their views.</u> <u>1bis. Where the Board considers that the parties under investigation and/or, in the case of full or partial rejection of a complaint, the complainant, have not been provided with an opportunity to express their views on the elements referred to in paragraph 1, the Board through the lead supervisory authority shall 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.</u> <u>1ter. Where the Board intends to adopt a binding decision</u>
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		requiring the lead supervisory authority to amend its draft decision or revised draft decision. The Board shall assess and 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. 2. The Board shall set a time limit for 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. 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. 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	Article 25 Procedure in relation to decision under Article 65(1), point (b), of Regulation (EU) 2016/679	Article 25 Procedure in relation to decision under Article 65(1), point (b), of Regulation (EU) 2016/679	We support the Council's proposal.

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; (b) the assessment of these facts as far as the conditions of Article 56(1) of Regulation (EU) 2016/679 are concerned; (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. 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.	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; (b) the assessment of these facts as far as the conditions of Article 56(1) of Regulation (EU) 2016/679 are concerned; (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. 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.	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, <u>including regarding the processing at stake;</u> (b) the assessment of these facts as far as the conditions of Article 56(1) of Regulation (EU) 2016/679 are concerned, <u>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;</u> (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
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		referring supervisory authority considers relevant and necessary in order to find a resolution on the subject-matter. <u>1a. Where appropriate, the Board may request further documents from the lead supervisory authority.</u> 2. 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 1a. <u>3. As soon as the file is registered by the Chair of the Board, it shall be provided to the members of the Board.</u> <u>4. Where a decision is adopted by the Board under Article 65 (1) (b) of Regulation 2016/679, in accordance with Article 65(6) of Regulation 2016/679, the competent supervisory authority designated by the Board shall acknowledge receipt of the binding decision and of its competence within one month as foreseen under Article 65(6) of Regulation 2016/679.</u>	
Article 26 Procedure in relation to decision under Article 65(1), point (c), of Regulation (EU) 2016/679	Article 26 Procedure in relation to decision under Article 65(1), point (c), of Regulation (EU) 2016/679	<i>Article 26</i> <i>Procedure in relation to decision under Article 65(1), point (c), of Regulation (EU) 2016/679</i>	The EP's proposal does not differ significantly from the EC's proposal and does not raise objections.

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;
- (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.

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.
3. The Chair of the Board shall register the referral no later than one week after having received the documents referred

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;
- (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 explanation of which points were not followed and a reference to the relevant part of the adopted decision.**

1a. The Chair of the Board shall inform all supervisory authorities of the referral made to the Board under paragraph 1, so as to allow the supervisory authorities to make their views known.

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.

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.

1a. Where appropriate, the Board may request further documents from the lead supervisory authority.

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

to in paragraphs 1 and 2.	3. The Chair of the Board shall register the referral no later than one week after having received all of the documents referred to in paragraphs 1 and 2.	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. 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, 1a and 2. <u>4. As soon as the file is registered by the Chair of the Board, it shall be provided to the members of the Board.</u>	
	Article 26a Procedural determinations by the Board 1. Pursuant to Article 66 of Regulation (EU) 2016/679, a supervisory authority may request from the Board to take an urgent binding decision in the form of a procedural determination on any procedural dispute arising between supervisory authorities in cases foreseen by this Regulation. 2. Where the lead supervisory authority is of the view that it cannot possibly comply with a		

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deadline pursuant to Article 4(1b) or Article 5a(3), especially because of the need for exceptionally complex factual investigations, it shall request from the Board an urgent binding decision pursuant to paragraph 1, regarding an extension of the deadline of up to nine more months. The supervisory authority shall demonstrate that despite its compliance with Article 2c(1), the extension sought is inevitable.

3. Requests under paragraph 1 and 2 shall at least contain:

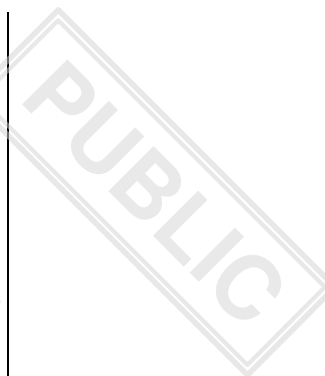
- (a) the facts relied upon and any evidence available to the authority or party;
- (b) the legal grounds for the request;
- (c) the determination pursuant to paragraph 1 or the deadline extension pursuant to paragraph 2 that the authority or party requests from the Board;

4. Within two weeks, the Board shall determine the matter based on the information before it or it shall reject the application. Determinations are binding on the supervisory authorities.

Article 26b
Right to an effective judicial remedy against a supervisory authority

1. Without prejudice to existing remedies under Article 78 of Regulation (EU) 2016/679 and any other administrative or non-judicial remedy, each party to the procedure shall have the right to an effective judicial remedy:

- (a) where the supervisory authority with which the complaint has been lodged does not use its powers to ensure that another supervisory authority progresses the procedure;
- (b) where a lead supervisory authority does not comply with deadlines as provided for in



	Regulation (EU) 2016/679 and this Regulation; or (c) where a supervisory authority does not comply with a binding decision of the Board. 2. Any party to the procedure or a not-for-profit body under Article 80 of Regulation (EU) 2016/679 may bring an action under paragraph 1, point (c) if it considers that the rights of a data subject under Regulation (EU) 2016/679 have been infringed as a result of the processing. 3. Where a court or tribunal exercising the review pursuant to paragraph 1 finds that a supervisory authority has not fulfilled its duties, it shall have the power to order that supervisory authority to take the necessary action.		
Chapter VI Urgency Procedure	Chapter VI Urgency Procedure	Chapter VI Urgency procedure	
Article 27 Urgent opinions 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 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; (b) a description of the provisional measure adopted on its own territory, 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	Article 27 Urgent opinions 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 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 evidence 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	<i>Article 27</i> <i>Urgent opinions under Article 66(2) of Regulation (EU) 2016/679</i> 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; (b) a description of the provisional measure adopted on its own	The EP's proposal is more similar to the EC's proposal and does not extend the powers of the EDPB in the same way as the Council's proposal which is why it deserves support.

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 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.	(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. (ca) where the requesting authority is not the lead supervisory authority, the views of the lead supervisory authority. 2. The urgent opinion of the Board shall be addressed to the all supervisory authority that submitted the request authorities. It shall be similar to an opinion within the meaning of Article 64(1) of Regulation (EU) 2016/679 and enable the requesting authority authorities to maintain or amend its provisional measure in line with the obligations of Article 64(7) of Regulation (EU) 2016/679.	territory, 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. <u>1a. Where appropriate, the Board may request further documents from the lead supervisory authority.</u> <u>1bis. 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 1a.</u> <u>1ter. As soon as the file is registered by the Chair of the Board, it shall be provided to the members of the Board.</u> 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
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		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 under Article 66(2) of Regulation (EU) 2016/679 1. A request for an urgent decision of the Board pursuant to Article 66(2) of Regulation (EU) 2016/679 shall be made no later than three 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; (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	Article 28 Urgent <u>binding</u> decisions 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 weeks prior to the expiry after the adoption 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 evidence 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 it, 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	Article 28 Urgent binding decisions 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; (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	As above, the EP's proposal does not seem to be problematic and at the same time does not assume such interference by the EDPB in the proceedings as foreseen in the Council's proposal. Therefore, we propose to support the EP's proposal if there is such a possibility.

the final measure, or proof that a supervisory authority failed to respond to a request under Article 61(3) 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 which provisional measures were taken pursuant to Article 66(1) of Regulation (EU) 2016/679. 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,	a supervisory authority failed to provide the information requested under Article 61(5) of Regulation (EU) 2016/679 or failed to respond to a request under pursuant to Article 61(3) 61(8) 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 available, the views of the local establishment of the parties. In case the requesting authority is not the lead supervisory authority, the requesting authority shall grant the right to be heard to the parties under investigation against which provisional measures were taken pursuant to Article 66(1) of Regulation (EU) 2016/679. 2. The urgent binding decision referred to in paragraph 1 shall be addressed to the lead supervisory authority and all the supervisory authorities concerned that submitted the request and shall enable the requesting authority to maintain or amend its provisional measure specify the supervisory authorities that would need to adopt final measures, if applicable, in light of the urgent opinion or decision of the Board pursuant to Article 66(2) of Regulation (EU) 2016/679. 3. Where the Board adopts an urgent binding decision indicating that final measures should be adopted, the supervisory authority or authorities 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 A supervisory authority that submitted the request referred to in paragraph 1 is responsible to adopt final measures shall notify its decision on the final measures to the establishment of	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 Article 61(35) 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 which provisional measures were taken pursuant to Article 66(1) of Regulation (EU) 2016/679.
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the lead and supervisory authorities concerned shall follow the procedure in Article 60 of Regulation (EU) 2016/679.	the controller or processor on the territory of its Member State parties under investigation and inform the Board. Where the lead supervisory authority is not the requesting authority, the requesting authority shall inform parties under investigation against which the provisional measures were adopted about the Board's decision and the final measures adopted by the lead supervisory authority. The complaint-receiving supervisory authority shall inform the complainant about the Board's decision and of the final measure measures adopted by the lead supervisory authority. 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.	<u>1a. Where appropriate, the Board may request further documents from the lead supervisory authority.</u> <u>1bis 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 1a. As soon as the file is registered by the Chair of the Board, it shall be provided to the members of the Board</u> <u>1ter. Prior to the adoption of the urgent binding decision pursuant to Article 66(2) of Regulation (EU) 2016/679, the Board shall assess whether the adoption of such decision relies on elements on which the parties under investigation have not been provided with an opportunity to express their views and, where necessary, provide the parties under investigation or the complainant, as the case may be, with an opportunity to make their views known.</u> 2. The urgent decision referred to in paragraph 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
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		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.	
	<u>Article 28a</u> <u>Remedies against procedural determinations</u> Remedies against procedural determinations by a supervisory authority under national law shall only be brought together with the remedy against the final material decision. Deadlines for remedies against procedural determinations under	<u>Article 28bis (new)</u> <u>Urgent decisions under Article 66(3) of Regulation (EU) 2016/679</u> 1. <u>A request for an binding urgent decision of the Board pursuant to Article 66(3) of Regulation (EU) 2016/679 shall contain all of the following items:</u>	As above – if there is such a possibility to modify/delete Article 28bis we suggest supporting such a proposal due to the EDPB's very high interference for the urgent adoption of the decision. We stand by the arguments raised during the

	applicable national law are prolonged for the duration of the procedure before the supervisory authority.	<u>(a) a summary of the relevant facts;</u> <u>(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 nature of 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;</u> <u>(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 local establishment of the parties under investigation or any other information in the possession of the requesting supervisory authority;</u> <u>(d) where the requesting authority is not the lead supervisory authority, the views of the lead supervisory</u>	last DAPIX meetings in this regard.
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		<u>authority.</u> 2. <u>Where appropriate, the Board may request further documents from the supervisory authority concerned or the lead supervisory authority.</u> 3. <u>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. As soon as the file is registered by the Chair of the Board, it shall be provided to the members of the Board.</u> 4. <u>Prior to the adoption of the urgent binding decision pursuant to Article 66(3) of Regulation (EU) 2016/679, the Board shall assess whether the adoption of such decision relies on elements on which the parties under investigation have not been provided with an opportunity to express their views and, where necessary, provide the parties under investigation or the complainant, as the case may be, with an opportunity to make their views known.</u> 5. <u>Where the Board adopts an urgent binding decision indicating that appropriate measures should be adopted, the supervisory authority to which the decision is addressed shall adopt such measures as soon as possible</u>
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		<u>and within a maximum of one month as provided under Article 65(6) of Regulation 2016/679.</u>	
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Chapter VII General and final provisions	Chapter VII General and final provisions	Chapter VII General and final provisions	
	Article 28b Enforcement Statistics 1. Supervisory authorities shall report the following numbers in their activity report under Article 59 of Regulation (EU) 2016/679: (a) the number of ex officio investigations initiated by the supervisory authority; (b) the number of ex officio investigations initiated by other supervisory authorities; (c) the number of complaints received, including the number that were rejected, dismissed, withdrawn, partly upheld, fully upheld or otherwise closed; (d) the number of legally binding decisions currently on appeal; (e) the number and average duration of open and decided procedures under (a) to (d) to date; (f) the number of each type of measure taken in accordance with Article 58(2) of Regulation (EU) 2016/679 or applicable national law; (g) the number and the amount of fines issued and collected under Article 83 and 84 of Regulation (EU) 2016/679 or relevant national law; and (h) the annual budget and the number of staff, by training, tasks and organizational units. 2. Supervisory authorities shall publish the activity report for the past year without undue delay, but no later than by 30 June. 3. The Board shall make the information of all supervisory authorities in paragraph 1 available to the public no later than 31 July of each year for the previous year. <i>(Article 28 b is placed in Chapter VII "General and final provisions")</i>		The EP's proposal imposes additional obligations that will increase the burden on authorities. In addition, the provision is unnecessary due to the fact that the authorities present statistics on the conducted proceedings at the request of the Commission as part of the evaluation of the GDPR. It is the committee that decides on what basis it will evaluate and what statistics it will request.

Article 29 Beginning of time periods and definition of working days 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 Council¹⁷. 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 29 Beginning of time periods and definition of working days 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 Council¹⁷. 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 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 Council¹⁷. 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.	
		<u>Article 29bis</u> <u>Commission report</u> <u>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.</u>	We support the Council's proposal in the scope of Article 29bis and the following.
Article 30 Transitional provisions Chapters III and IV shall apply to 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 shall apply to all cases submitted to dispute resolution under	Article 30 Transitional provisions Chapters III and IV I, II and III shall apply to 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 Chapters V and VI shall apply to all cases submitted to dispute resolution under Article 65 and urgency procedure under	Article 30 Transitional provisions Chapters III and IV shall apply to <i>ex officio</i> investigations opened after <u>18 months after the date of entry into force of this Regulation</u> the entry into force of this Regulation and to complaint-based investigations where the complaint was lodged after <u>18</u>	

¹⁷ 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 65 of Regulation (EU) 2016/679 after the entry into force of this Regulation.	Article 66(2) and (3) of Regulation (EU) 2016/679 after the entry into force of this Regulation. Until ... [six months from the date of application of this Regulation], the lead supervisory authority shall, upon request, provide all documents in its own file to other supervisory authorities by other electronic means.	<u>months after the date of entry into force of this Regulation</u> —the entry into force of this Regulation. Chapter V shall apply to all cases submitted to dispute resolution under Article 65 of Regulation (EU) 2016/679 after <u>18 months after the date of entry into force of this Regulation</u> . the entry into force of this Regulation.	
	Article 30a Evaluation and review The Commission shall evaluate and review this Regulation as part of its reports to the European Parliament and to the Council under Article 97 of Regulation (EU) 2016/679.		
Article 31 Entry into force This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union. This Regulation shall be binding in its entirety and directly applicable in all Member States. Done at Brussels,	Article 31 Entry into force and application This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union. This Regulation shall be binding in its entirety and directly applicable in all Member States. Done at Brussels, 1a. It shall apply from ... [one year from the date of entry into force of this Regulation]. However, Article 2b(1), point(c), Article 2b(3), last sentence, Article 2c(2), last sentence, and (5), Article 2d(3) and (6), Articles 8(1) and 18(1), point (a) shall apply from ... [six months from the date of application of this Regulation].	Article 31 <u>Entry into force and application</u> 1. This Regulation shall enter into force on the twentieth day following that of its publication in the <i>Official Journal of the European Union</i> . 2. This Regulation shall apply from 18 months after its date of entry into force. This Regulation shall be binding in its entirety and directly applicable in all Member States.	

SLOVAKIA

Written contribution of the Ministry of Justice of Slovak Republic on the 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 (General exchange of views on the position of the European Parliament adopted at Plenary on 10 April 2024)

(Working Party on Data Protection)

Dear Colleagues,

please find below our comments on the position of the European Parliament on the proposed regulation and questions raised in your email on 25 July 2024.

As a general observation, we believe that Council position is a good compromise. We are afraid that some proposals of the EP directly change the GDPR. We consider that it is not a good approach as the proposed regulation should only complete GDPR and provide clear rules for cross-border proceedings. Some proposals of the EP are not clear and need detailed discussion. Therefore, it is not possible to provide exhaustive comments on some parts of the EP position for now. We noticed that EP proposal tries to put controller/processor and data subject on the same level by making complainant a party of the proceedings. We believe that position of the controller/processor and data subjects should not be the same and they should not have the same (level of) rights. It seems that some proposals of the EP go beyond cross-border nature of proceedings and regulates matters which should stay under national administrative law.

*a) What are the **main points of concerns** for your delegation in the EP report?*

Chapter I and IV

We have to disagree with the new Recital 2a, which states that the Regulation does not apply if a party lodges a complaint directly with the lead supervisory authority in another Member State. It is not clear why such types of proceedings should not be governed by the regulation. It is not even mentioned in the Article on the scope of the Regulation.

In the scope of the Regulation, there is a discrepancy with the proposal of the Council, which in Article 6bis provides for the possibility to deviate from the Regulation (the Regulation would apply to so-called strategic cases). The EP does not introduce such an exception – the Regulation will apply to all cross-border proceedings. At earlier meetings of the WP DP, we supported the Council's approach on this issue.

The EP proposes in Article 2 (2) 1a) and 1b) that the complainant, or another third party involved in the proceedings as defined under national law, also becomes a „party”. We do not support this proposal, since we are afraid that these parties could then apply remedies against the decision of the supervisory authority as well as other rights that the party derives not only from the Regulation, but also from national administrative regulations (e.g. administrative order). Therefore, we support the Council's proposal that only the controller/processor is a party to the proceedings. Generally speaking, we believe that there should be a balance between controller/processor and complainant and there is no need for complainant to be a party of a proceedings and have a same right as a controller/processor.

We are not in favour of introducing the notion *national procedural law* in Article 2 (2) 1c). It is a commonly known term and supervisory authorities do not need to define it. The EP also proposes an exhaustive list of what national procedural law is. This could cause problems in practice. We think that is not necessary to define *complaints procedure* and *ex officio procedure* (point 1d and 1e), as the Regulation should be as short as possible to be used effectively by the actors.

The term joint file mentioned in Article 2 (2) 1f) should be consistent with the system that the supervisory authorities and the EDPB use for cross-border proceedings IMI system. The IMI system is also used in the event of a dispute before the EDPB from cross-border proceedings pursuant to Art. 65 or an urgent decision of the EDPB pursuant to Art. 66 GDPR, or other mechanisms serving to strengthen cooperation between supervisory authorities (e.g. request for mutual assistance according to Article 61 GDPR). We are wondering how/where should be cross-border proceedings handled during 6 months period from the date of the application of the Regulation that is envisioned in Article 30 (2a). As the parties should have the access to the system we would like to also know how does should work. We think that EP should clarify this point in details (who will be responsible for the technical side, financial and human resources, how the supervisory authorities and EDPB are involved, how the remote access will be done).

We think we can agree with the deletion of Chapter IV and its replacement by section 1B in Chapter I. However, we support the wording of the Council on the given provisions, not the wording proposed by the EP. In case of keeping the EP proposal:

- Article 2a should also mentioned EDPB in paragraphs 1 and 2. EDPB is also one of the actor in cross-border proceedings and is govern by GDPR and proposed regulation.
- Article 2b (7) sets limitation to the length of submission by the parties to not more than 50 pages. We consider that such provision is not appropriate and could potentially hinder right to be heard.

- Article 2c (2), which allows the lead supervisory authority to dispute the declaration of SA as the concerned supervisory authority and take it before the EDPB for dispute resolution under the new Art. 26a goes beyond the general regulation of the GDPR, which does not introduce such option. The GDPR only allows disputes if it is not clear who is the lead supervisory authority. Without detailed explanation why is this procedure vital, our preliminary position is that we do not support this new institute and the overall mechanism for resolving this dispute.
- We recommend deleting the new Article 2d governing *Use of Language and Translations*. This is in line with the proposal of the Council, which also deleted the original proposal of the Commission (Article 6) and leaves it for free adjustment/practice between supervisory authorities. We are afraid that the EP proposal is not clear. For example, EDPB shall determine language that shall be accepted by all SA. But this provision does not regulate how such determination should look like – it is enough to regulate it in the Rules of procedure of EDPB (this is the current practise)? Or should this be some standalone document – what kind of document – decision, statement, etc.? There is also administrative and financial burden for SA in paragraph 4 that SA shall translate if necessary documents *into any other language the party understands*. It is our opinion that national rules on language used in administrative proceedings should be respected.

Article 3 (in EP proposal is in Chapter I)

- paragraph 1c is not clear if *a case number* should be assigned under national law or this is related to joint case file and will be assigned by it.
- paragraph 2b uses word „party” which could lead to unnecessary action as the complainant could raise objection in relation of the assumed LSA. We do not see a reason why complaint should have this possibility, why there is a need to have it. Under Article 56 (2) and following paragraphs GDPR, case is handled locally if LSA decides so. In our opinion this is not something what could be objected by CSA or by party.
- 2c regulates situation where there is not a consensus among SAs who is LSA and provide for a new mechanism under new Article 26a (Procedural determinations by the Board). We are not sure why there is a need for a new mechanism for handling such problems. We believe that GDPR in Article 65 (1) c) regulates have to handle such case.

Chapter II

We would like Article 5 to be called Article 5 *Amicable settlement* again. This institute is mention in recital 131 GDPR. This type of „decision” is used now among SAs and this provision could make a clarity how it should be applied. The practise of SA with this type of decision vary as can be seen in EDPB Guidelines 06/2022 on the practical implementation of amicable settlements adopted on

12 May 2022. If we keep the title of this Article as Amicable settlement it will be clear that no other national kind of Amicable settlement are possible in cross-border proceedings. But if we call it early resolution that could create doubts whether it is still possible to conclude case with “national kind” of Amicable settlement as the condition for early resolution and “national kind” of Amicable settlement may differ. Regarding the content of Article 5, we are in favour of Council wording as EP proposal is not limited to data subject rights or time when it can be concluded. We would have to disagree with the possibility to start *ex officio* proceedings when the case was handled by Amicable settlement. We are concerned it could be in breach of principle *ne bis in idem*.

We are concerned about Article 5a (Request for an *ex officio* procedure). Particularly, we are afraid this might infringe the principle of the independency of SA. We are also wondering about interplay of this Article with the Council proposal that Regulation should apply to strategic cases.

Chapter III

Regarding the Summary of key issues, Article 9 (1) says it shall be drafted *in an impartial way*. We do not understand what is envisioned by this. It is difficult for us to understand without an explanation from the EP what the purpose/aim of this proposal is.

Another Article that is not clear for us is Article 16 (1d) which require for LSA to ensure that decision contains all elements necessary under the applicable national procedural law of the CSA. In our opinion, this provision may be more difficult to apply in practice due to the fact that national procedural law differs between individual member states, taking into account the fact that what may be acceptable in one member state may not be acceptable in another. In addition from wording of Article 16 (1g) it is not clear where SA should published decisions – on their own website or on the website of EDPB.

Chapter V

We are wondering why EP proposes deletion of Article 25 (Procedure in relation to decision under Article 65(1), point (b), of Regulation (EU) 2016/679). Does the EP think that it should be dealt under Article 26a? Or does the EP think that it is not necessary to regulate this type of procedure in the new Regulation?

Article 26a (Procedural determinations by the Board) and Article 26b (Right to an effective judicial remedy against a supervisory authority) are new procedures. We are concerned that these Articles go beyond the scope of the Regulation. It might clash with the national procedural autonomy. Regarding Article 26a, a new type of dispute is introduced that is not in the GDPR. We are concerned that it would add an administrative burden to the process and also to the EDPB and SAs. We should bear in mind that EDPB’s decision can be appealed to the CJEU and overall process

would not be quick. The aim of Article 26b is not clear to us. The EP could elaborate more on why this Article is important and what impact it has on the cross-border proceedings in practise and what is the added value of this provision.

Chapter VI

Article 28a (Remedies against procedural determinations) is a new procedure. We have same concerns as with Articles 26a and 26b.

Chapter VII

We are concerned about new Article 28a that regulates Enforcement statistics. We are worried that some provisions directly amend GDPR. For example, paragraph 2 regulates when the annual report of the supervisory authority must be submitted. The problem we have is this is not a procedural rule that determines the next procedure in cross-border proceedings, but a derogation from the general rule from the GDPR (Article 59), which is the preparation of an annual report and its submission to certain entities without specifying a specific date. Paragraph 3 introduces the obligation of the EDPB to make statistical data available. The EDPB has no obligations in this area under the GDPR. The annual report of the supervisory authority should be made available to EDPB without any specific action to be taken by the EDPB. Proposed Article also extends to parts not related to cross-border proceedings and therefore we are not in favour of this. On the contrary, we are flexible in case of paragraph 1 that specifies what shall be in Annual Report of DPA as this is directly related to cross-border proceedings and we believe it does not change GDPR but complements it.

In regards to Transitional provision (Article 30) and Entry into force (Art. 31) we are in favour of clear distinction between *Entry into force* and *Application* of the Regulation. As far as EP proposal is concerned, we think that these articles are not clear. Our main concern is that we are not sure whether the one-year period for the start of application is long enough to prepare all the actors – for example, data protection authorities or even legislators in case this regulation will trigger the need for a more extensive amendment of the national law. We are of the view that interplay between EP proposal in Article 30 Article 31 is not clear, as Article 30 uses the time point „after the entry into force of this Regulation” and does not use the time point „application”.

Note: in Council proposal, recital 37 does not reflect the distinction between Entry into force and Application of the Regulation.

b) What are the provisions of the Regulation that constitute a red line for your delegation?

So far, we have not identified any red line.

*c) Where does your delegation see room for **flexibility** for the Council to move towards the EP position? Does the delegation see any possibility for such flexibility?*

In case of the proposals of the EP which was not mention in question a) we are flexible.

Regarding the time limits/deadlines in Regulation, we are open to discussion.

In Article 2 (2) 1g the EP defines „complaint-receiving authority”. However, this notion is not really used in Regulation. In case of keeping this notion we propose to amend concerned Articles.

In our view, Article 10a (Cooperation with other relevant authorities) is not necessary. It is also something what is applicable beyond the scope of cross-border proceedings and we believe is regulated by national administrative law.

The EP proposals for Articles 27 and 28 change the addressee of the EDPB urgent opinion/urgent binding decision. In case of urgent opinion, the addressee is not SA that submitted the request, but all SAs. In case of urgent binding decision, the addressee is not SA that submitted the request, but LSA and CSAs. This seems more in line with the practise of EDPB as far as urgent binding decisions are concerned. From our point of view, it is also in accordance with the principle of consistent application of GDPR which, in our opinion, would be strengthened by this.

We are flexible on whether the details/elements of the complaint will be listed in the Article or in a separate Annex. In this section, it is important for us not to ask for a form of identification of the complainant. Verification of complainant's identity is not common in our national administrative proceedings as it is not objectively necessary for the handling of complaints. We have no problem with keeping the option in Recital 4 to use the template/elements for non-cross-border proceedings as well.

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 (EP Position) – FI preliminary written comments

Hungarian Presidency has as a follow-up to the meeting of the Working Party on Data Protection on 22nd July invited delegations to provide written comments concerning the Proposal and the General exchange of views on the position of the European Parliament adopted at Plenary on 10 April 2024.

Finland provides the following **preliminary comments** to the questions the Presidency has communicated:

- a) What are the main points of concerns for your delegation in the EP report?
- b) What are the provisions of the Regulation that constitute a red line for your delegation?
- c) Where does your delegation see room for flexibility for the Council to move towards the EP position? Does the delegation see any possibility for such flexibility?

a) What are the main points of concerns for your delegation in the EP report?

Finland is still evaluating the EP position. **In general there are primarily three points** that should be taken into account in the forthcoming dialogues:

Firstly, to ensure adequate processual rights, including right of access to documents, for both the complainant and the parties under investigation and to actually streamline the cooperation mechanism.

Secondly, to regulate only on necessary things and aim for clear and easily understandable regulation that is fully in line with the GDPR.

Thirdly, to avoid provisions that might have disproportional effects to national administrative procedures and cause unnecessary administrative burden to the supervisory authorities and the EDPB.

Regarding these three points, some parts in the EP position seem positive and Finland could primarily have flexibility. For instance, the EP position seems to leave more flexibility concerning the procedural rights and would in certain parts have less effect on national administrative procedures and legislation. The EP has also proposed to delete certain articles that might cause the EDPB and the supervisory authorities unnecessary administrative burden.

Finland wants to point out that in some parts the EP position seems to however propose too detailed regulation. All-in-all the EP has proposed quite a lot of new provisions [e.g. in Articles 3, 5, 5a, 10a,

26a, 26b, 28a, 28b] which require further look and evaluation. In addition, the deadlines and time-limits throughout the EP position seem quite strict and require a further examination. **According to our preliminary assessment**, the deadlines proposed, for instance in Article 3, do not seem realistic. The strict deadlines in Article 3 would for instance limit the possibilities for proper pre-vetting. There are also other reservations concerning amendments proposed to Article 3. For instance Article 3(1a), which proposes that the complainant should not be required to contact the party under investigation before submitting a complaint, does not seem proportionate. Preliminarily Finland has also reservations concerning Articles 26a and 26b.

b) What are the provisions of the Regulation that constitute a red line for your delegation?

Concerning possible red lines, Finland wants to highlight that concerning **the complainant's right of access to documents** as well as the provisions concerning **confidentiality of information**, there is no flexibility to restrict the complainant's right of access to documents and the confidentiality provisions any further. The compromise reached in the Council's General approach is a red line and we would welcome if the negotiations would go to a direction that would ensure the complainant better right to documents and overall concerning processual rights and access to documents (including confidentiality), leave more flexibility for Member States.

We would also welcome if the **Annex would be removed** from the Regulation, as it is adequate to regulate the admissibility criteria in the Article 3. This is not a strict red line, but it seems that the EP might have flexibility in this, as they accept in their Position that the information could be provided without using the template (Annex).

It is also important to **ensure that all the proposed deadlines and time-limits are actually doable in practise, fully in line with GDPR and not cause unnecessary administrative burden**. There might be redlines concerning some time-limits as well as provisions that seem unnecessary and/or seem to provide too detailed procedural rules (e.g. Article 3(1a)).

c) Where does your delegation see room for flexibility for the Council to move towards the EP position? Does the delegation see any possibility for such flexibility?

Primarily, there might be room for **negotiation concerning the margin of manoeuvre left for the Member States, supervisory authorities and the EDPB concerning processual rights** (including access to information), for instance to assess when and how the participants should be heard. The EP has for instance in Article 2b proposed for a more flexible approach for common procedural standards.

Overall we see that **this Regulation should regulate only on necessary things, in this regard there might also be room for discussion**. The EP has for instance proposed to delete certain articles and provisions that could lead to unnecessary administrative burden for the supervisory authorities and the EDPB (e.g. Articles 24 and 25). We might be open to discuss further on some of these articles.

Finland welcomes to continue discussing the EP position and preparing for the forthcoming trialogues during our next meeting in September. Concerning the bilateral meetings between the Presidency and the Member States, Finland would welcome the possibility for both in-person and remote meeting.

SWEDEN

Sweden would hereby like to submit in written form our general view on the position of the European Parliament (EP) for a Regulation laying down additional procedural rules relating to the enforcement of the GDPR, including our main concerns and red lines in the upcoming three-party negotiations. Please note that the analysis of the changes proposed by the European Parliament is still ongoing and that Sweden would like to reserve the right to get into more detail on individual articles at the upcoming working group meetings.

Main points of concern in the EP report

It is very important to ensure that the proposed regulation does not heighten the administrative burden on the supervisory authorities or the EDPB more than necessary. In view of this it is important that the regulation does not become too far-reaching or detailed. In this regard, the general approach adopted by the Council has improved compared to the proposal from the Commission, not the least by the inclusion of Article 6bis. It is of great concern to Sweden that the EP position is even more detailed and far-reaching than the Commission's proposal. A limitation of the Regulation is necessary. Please note that Sweden has submitted a reasoned opinion stating that the Commission's draft of the Regulation is too far reaching and detailed and does not comply with the principle of subsidiarity.

Furthermore, the EP position includes provisions that are applicable not only to cross-border cases (especially Article 26 b). The scope of the regulation should be limited to cross-border cases.

Another concern is the introduction of a joint case file and especially Article 8.1 that gives other supervisory authorities direct access to this file. Besides the practical problems of creating a system which enables a joint case file, the possibility of direct access can cause problems regarding public access to documents and to confidentiality. It is likely that any documents accessible to the Swedish supervisory authority through direct access would be public documents in Sweden (although they might be subject to confidentiality provisions).

Furthermore, the amount of short deadlines (not the least in comparison with the Council's general approach) will be an unnecessary burden to the supervisory authorities. Given that Sweden hopes that the Regulation a priori will be used in difficult cases, the deadlines seem unrealistic. Sweden fears that the proposed remedy to this problem, Article 26 a, will in itself increase the administrative burden both for the supervisory authorities and for the EDPB.

Lastly, some of the provisions in the EP position are contrary to the principle of national procedural autonomy. The scope of the Regulation should be limited to what is necessary in order to achieve

the purposes of the Regulation. In this regard chapter 2 A, Article 16.1.d and Article 28 a should be omitted.

Swedish red lines in the upcoming negotiations

In line with the general concerns detailed above, the following are red lines for Sweden in the upcoming negotiations:

- Provisions that, in comparison with the general approach, would heighten the administrative burden on the supervisory authorities can generally not be accepted. Although specific articles can be pinpointed as especially troublesome in this regard (including Article 26.a), Sweden would like to stress the importance of assessing the consequences of the Regulation in its entirety. For example, it is of primary concern to agree upon in which cases the enhanced cooperation mechanism should be applied, i.e. the scope of Article 6bis, to be able to find the right balance when assessing time limits and level of detail in the other provisions. The inclusion of Article 6bis is of key importance to Sweden.
- The Regulation should only be applicable to cross border cases. Provisions with a general scope such as Article 26 b cannot be accepted.
- There should not be a joint casefile. Article 8.1 is especially problematic.
- Provisions regarding access to documents and confidentiality has been of concern to Sweden during the negotiation of the general approach. It is of key importance to Sweden that the amendments and omissions made in Articles 15, 19, 20 and 21 (including the associated recitals) are kept.
- The regulation should not interfere with national procedural autonomy. In this regard Articles 16.1.d and 28 a are especially troublesome.

Room for flexibility

In general, Sweden would like to defend the general approach as much as possible. However, Sweden is open to discuss moving towards the EP position where the EP has deleted provisions, especially articles 19-21.