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From:	General Secretariat of the Council
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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 - General approach

At its meeting on 13 June 2024, the Council (Justice and Home Affairs) approved a general approach in respect of the above proposal for a Regulation.

The text as approved by the Council is set out in the Annex. Changes with respect to the text of the Commission's proposal are marked in bold (for additions) and by strikethrough (for deletions).

The general approach will constitute the mandate for the negotiations with the European Parliament in the context of the ordinary legislative procedure.

ANNEX

2023/0202 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL laying down additional procedural rules relating to the enforcement of Regulation (EU) 2016/679

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the European Commission,

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

Having regard to the opinion of the European Economic and Social Committee[1],

Having regard to the opinion of the Committee of the Regions[2],

Acting in accordance with the ordinary legislative procedure,

[1] OJ C , , p. .
[2] OJ C , , p. .

Whereas:

(1) Regulation (EU) 2016/679 of the European Parliament and of the Council[3] establishes a decentralised enforcement system which aims to ensure the consistent interpretation and application of Regulation (EU) 2016/679 in cross-border cases. In cases concerning cross-border processing of personal data, this system requires cooperation between supervisory authorities in an endeavour to reach consensus and, where supervisory authorities cannot reach consensus, provides for dispute resolution by the European Data Protection Board (the Board).

(2) In order to provide for the smooth and effective functioning of the cooperation and dispute resolution mechanism provided for in Articles 60 and 65 of Regulation (EU) 2016/679, it is necessary to lay down rules concerning the conduct of proceedings by the supervisory authorities in cross-border cases, and by the Board during dispute resolution, including the handling of cross-border complaints. It is also necessary for this reason to lay down rules concerning the exercise of the right to be heard by the parties under investigation prior to the adoption of decisions by supervisory authorities and, as the case may be, by the Board.

(3) Complaints are an essential source of information for detecting infringements of data protection rules. Defining clear and efficient procedures for the handling of complaints in cross-border cases is necessary since the complaint may be dealt with by a supervisory authority other than the one to which the complaint was lodged.

[3] Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

(3a) A complaint should be understood as a claim lodged by a data subject with a supervisory authority in accordance with Article 77(1) or Article 80 of the Regulation (EU) 2016/679, seeking protection of his or her rights due to an alleged infringement of Regulation (EU) 2016/679 by processing of the data subject's personal data. The mere reporting of alleged infringements which does not concern the processing of personal data relating to the data subject, requests for advice from controllers or processors or general requests regarding the application of the GDPR, either from controllers, processors or natural persons, should not be regarded as a complaint.

(4) In order to be admissible a complaint should contain certain specified information. **No additional information should be required for a complaint relating to cross-border processing to be deemed admissible.** ~~Therefore, in order to assist complainants in submitting the necessary facts to the supervisory authorities, a complaint form should be provided. The information specified in the form should be required only in cases of cross-border processing in the sense of Regulation (EU) 2016/679, though the form may be used by supervisory authorities for cases that do not concern cross-border processing. The form may be submitted electronically or by post. The submission of the information listed in that form should be a condition for a complaint relating to cross-border processing to be treated as a complaint as referred to in Article 77 of Regulation (EU) 2016/679~~. **However, administrative modalities and requirements for the admissibility of complaints under the national procedural law of the supervisory authority with which a complaint is lodged, such as language, statute of limitations, means of identification, electronic form, specific template or signature, continue to apply.** ~~No additional information should be required for a complaint to be deemed admissible~~.

(4a) As part of the specified information required, the contact details of the person, or entity, filling the complaint could include the postal address, place of residence, and where available email address, in order to allow supervisory authorities to acknowledge receipt of complaint and, when necessary, contact the complainant.

(4b) Where the entity filling the complaint is a body, organisation or association referred to in Article 80 of Regulation 2016/679, a proof that the body, organisation or association has been properly constituted in accordance with the national law of the Member State of the authority with which the complaint is lodged should be provided, together with a proof that such body, organisation or association is acting on the basis of the mandate of the data subject. The modalities and procedures for the establishment of such proofs are determined in accordance with the national law of the Member State of the authority with which the complaint was lodged.

(4c) Where the complainant is a natural person not in a position to exercise his/her right to lodge a complaint without the assistance of a legal representative, for example because he/she is a child or because he/she has a disability or vulnerability, the result of which is that his/her rights are being exercised through another person, such as a parent, legal guardian or family member, and where such representation is allowed under national law, that circumstance must be clearly identified at the point in time at which the complaint is lodged together with sufficient information so as to enable the supervisory authority with which the complaint is lodged to satisfy itself that it is appropriate for it to engage with the representative on the complainant's behalf.

(4d) Supervisory authorities should facilitate the submission of all required information by the complainant and could ask for further information from the complainant in order to facilitate the handling of the complaint. Where some of the information necessary for the complaint to be deemed admissible is missing, the supervisory authority with which the complaint is lodged could contact the complainant in order to obtain the missing information where feasible. Only the supervisory authority with which the complaint is lodged should decide on its admissibility and such decision should be binding on the lead supervisory authority.

(4e) Where, following receipt of a complaint relating to cross-border processing from a supervisory authority, the lead supervisory authority requires additional information from the complainant in order to allow for the full investigation of the complaint, the supervisory authority with which the complaint was lodged should assist the lead supervisory authority, including by contacting the complainant to seek the required information if needed. The lead supervisory authority should not contest the admissibility of a complaint relating to cross-border processing.

(4f) It should be possible for supervisory authorities to facilitate the submission of complaints in a user-friendly electronic format and bearing in mind the needs of persons with disabilities, as long as the information required from the complainant corresponds to the **specified** information required ~~by the form~~ and no additional information ~~is~~ **should be** required in order to find the complaint admissible.

(5) Supervisory authorities ~~are obliged to~~ **should** decide on complaints within a reasonable timeframe. What is a reasonable timeframe depends on the circumstances of each case and, in particular, its context, the various procedural steps followed by the lead supervisory authority, the conduct of the parties in the course of the procedure and the complexity of the case.

(6) Each complaint handled by a supervisory authority pursuant to Article 57(1), point (f), of Regulation (EU) 2016/679 ~~is to~~ **should** be investigated with all due diligence to the extent appropriate bearing in mind that every use of powers by the supervisory authority must be appropriate, necessary and proportionate in view of ensuring compliance with Regulation (EU) 2016/679. It falls within the discretion of each competent authority to decide the extent to which a complaint should be investigated. While assessing the extent appropriate of an investigation, supervisory authorities should aim to deliver a satisfactory resolution to the complainant, which may not necessarily require exhaustively investigating all possible legal and factual elements arising from the complaint, but which provides an effective and quick remedy to the complainant. The assessment of the extent of the investigative measures required could be informed by the gravity of the alleged infringement, its systemic or repetitive nature, or the fact, as the case may be, that the complainant also took advantage of her or his rights under Article 79 of Regulation (EU) 2016/679.

(7) The lead supervisory authority should provide the supervisory authority with which the complaint was lodged with the necessary information on the progress of the investigation for the purpose of providing updates to the complainant.

(8) The competent supervisory authority should provide the complainant with access to the documents on the basis of which the supervisory authority reached a preliminary conclusion to reject fully or partially the complaint.

(9) In order for supervisory authorities to bring a swift end to infringements of Regulation (EU) 2016/679 and to deliver a quick resolution for complainants, supervisory authorities should endeavour, where appropriate, to **apply procedures allowing for the early resolution of complaints, provided that such resolution results in the satisfaction of the complainant's request and that the infringement has been terminated. The early resolution of a complaint should therefore apply to cases where the complainant is duly able to assess the proposed outcome and determine that its request has been satisfied.** ~~resolve complaints by amicable settlement.~~

(9a) The early resolution of a complaint may be particularly useful in expeditiously resolving disputes concerning infringements of data subject rights to the satisfaction of the complainant's request. Such outcome should allow the supervisory authority with which the complaint was lodged to consider, on the basis of preliminary engagement with the data controller and processor and provided that supporting evidence has been obtained, that the complaint becomes devoid of purpose and that the complainant's request is satisfied. In such a case, the lead supervisory authority should be informed about the early resolution but the complaint should not be transmitted. Where the lead supervisory authority is the authority receiving the complaint, it may also apply such procedure.

(9b) Where allowed under national law, an amicable settlement could also be considered as a way allowing for the early resolution of a complaint. However, resolution of the complaint by amicable settlement should not be possible where the data subject objects to the proposed outcome. In any event, the resolution of a complaint through amicable settelment by the lead supervisory authority should rely on a final decision pursuant to Article 60, paragraph 7 of Regulation (EU) 2016/679.

(9c) Where the lead supervisory authority considers that a complaint can be resolved through a procedure allowing for its early resolution, a draft decision pursuant to Article 60, paragraph 3 of Regulation (EU) 2016/679 should be submitted to the other supervisory authorities concerned, with a view to adopting a final decision in accordance with Art. 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. The draft decision submitted could therefore be simplified and limited to an information that the complaint was settled, in whole or in part, through a procedure allowing for its early resolution, indicating the reasons underlying the decision and the scope of the resolution, and confirming that the complaint is therefore devoid of purpose. In such cases, the lead supervisory authority should directly submit its draft decision, without having to prepare and circulate a summary of key issues nor preliminary findings.

(9d) The ~~fact~~ **circumstance** that an individual complaint has been resolved through ~~an amicable settlement~~**a procedure allowing for its early resolution** ~~does~~ **should** not prevent the competent supervisory authority from pursuing an *ex officio* case, ~~for example~~**in particular** in the case of systemic or repetitive infringements of Regulation (EU) 2016/679.

(10) In order to guarantee the effective functioning of the cooperation and consistency mechanisms in Chapter VII of Regulation (EU) 2016/679, it is important that cross-border cases are resolved in a timely fashion and in line with the spirit of sincere and effective cooperation that underlies Article 60 of Regulation (EU) 2016/679. The lead supervisory authority should exercise its competence within a framework of close cooperation with the other supervisory authorities concerned. Likewise, supervisory authorities concerned should actively engage in the investigation at an early stage in an endeavour to reach a consensus, making full use of the tools provided by Regulation (EU) 2016/679.

(10a) Cases where the rights of a child as data subject are at stake, and cases related to the dissemination of intimate material, should be given high priority to ensure the adequate protection of the rights of the child.

(10b) Where the lead supervisory authority, based on the characteristics of the case and previous decisions, considers that enhanced cooperation or further engagement in formal procedural steps for the handling of a complaint-based investigation relating to cross-border processing is not necessary, the lead supervisory authority should inform supervisory authorities concerned of such assessment and provide all relevant information concerning the complaint, including the main relevant facts and the provisions to be investigated. This may apply for example where the case does not raise any structural or recurring problem in several Member States, where the case does not concern a general legal issue with regards to the interpretation, application or enforcement of Regulation (EU) 2016/679, where the case is not related to the intersection of data protection with other legal fields, where the case does not affect a large number of data subjects in several Member States, where the case is not related to a large number of complaints in several Member States; or where Regulation (EU) 2016/679 does not imply that a high risk can be assumed. In such a case, unless any of the supervisory authorities concerned object, the lead supervisory authority shall continue cooperating in accordance with Article 60 of Regulation (EU) 2016/679 and submit a draft decision as referred to in Article 60, paragraph 3 of Regulation (EU) 2016/679.

(10c) Where formal steps for the enhanced cooperation procedure pursuant to this regulation are not engaged, supervisory authorities should ensure that the right to be heard of the parties under investigation and the complainant applies in a timely manner, as provided for in this Regulation and in line with Article 41(2) of the Charter which enshrines the right to good administration and the right of every person to be heard before any individual measure which would affect him or her adversely is taken.

(11) It is particularly important for supervisory authorities to reach consensus on key aspects of the investigation as early as possible and prior to the communication of allegations to the parties under investigation and adoption of the draft decision referred to in Article 60 of Regulation (EU) 2016/679, thereby reducing the number of cases submitted to the dispute resolution mechanism in Article 65 of Regulation (EU) 2016/679 and ultimately ensuring the quick resolution of cross-border cases.

(12) Cooperation between supervisory authorities should be based on open dialogue which allows concerned supervisory authorities to meaningfully impact the course of the investigation by sharing their experiences and views with the lead supervisory authority, with due regard for the margin of discretion enjoyed by each supervisory authority, including in the assessment of the extent appropriate to investigate a case, and for the varying traditions of the Member States.

(12a) In this context, the exchange of relevant information between the lead supervisory authority and supervisory authorities concerned is an important element to support the spirit of effective and sincere cooperation. The relevant information to be provided by the lead surpervisory authority will depend on the specificity of the case being investigated and should be considered in a proportionate manner. Such exchange of relevant information, and the timely provision of specific elements of information by the lead supervisory authority, should be understood as a continuous process throughout the course of an investigation and may vary in terms of documents and details required, depending on the complexity of the case being investigated. In particular, depending on the stage of the investigation and the circumstances of a case, such relevant information could progressively include, among others, the exchange of correspondence with the data controller or the data subject on the subject of a complaint or investigation, the preparatory documents for an audit or inspection, or preliminary technical or legal assessment being considered by the lead supervisory authority as a result of a specific step in its investigation.

(12b) While the lead supervisory authority should provide any relevant information to the supervisory authorities concerned without delay after the information becomes available, concerned supervisory authorities should also proactively make available any relevant information deemed useful to assess the legal and factual elements of a case. The exchange of relevant information should support the swift and effective cooperation between supervisory authorities and may, in certain cases, be supported by summary, extracts or copies of documents in order to facilitate a swift understanding of a case, while allowing for complementary information to be provided where further elements become necessary. In order to facilitate an effective and appropriate exchange of information between supervisory authorities, the Board could specify the modalities and requirements for the exchange of such information.

(12c) ~~For this purpose~~**As part of the relevant information on a specific case**, the lead supervisory authority should provide concerned supervisory authorities with a summary of key issues setting out its preliminary view on the main issues in an investigation. It should be provided at a sufficiently early stage to allow effective inclusion of **the views submitted by** supervisory authorities concerned but at the same time at a stage where the lead supervisory authority **has sufficient elements to form its**~~'s~~ views on the case ~~are sufficiently mature~~**, where necessary by means of preliminary analysis and possible initial investigative measures**. **While the summary of key issues should always include the main relevant facts, the preliminary identification of the scope of investigations and the relevant provisions of Regulation (EU) 2016/679 concerned by the alleged infringement to be investigated, other additional elements should be provided in the summary of key issues depending on their availability and their relevance in order to facilitate the substantive assessement by supervisory authorities concerned and the formulation of their respective views. Such additional elements could include the identification of legal and technical issues deemed relevant for the investigation, in particular where such issues appear complex. The summary of key issues could also include the preliminary identification of potential corrective measures in cases where the lead supervisory authority has sufficient elements to form a preliminary view on the matter, in particular when the provisions of Regulation (EU) 2016/679 concerned by the alleged infringement can be easily circumscribed and identified at an early stage.**

(12d) Concerned supervisory authorities should have the opportunity to provide their comments **on the summary of key issues, including** on a broad range of questions, such as the scope of the investigation**, the identification of the alleged infringements** and the identification of ~~complex~~ factual and legal ~~assessments~~**issues which are relevant for the investigation**. Given that the scope of the investigation determines the matters which require investigation by the lead supervisory authority, supervisory authorities should endeavour to achieve consensus as early as possible on the scope of the investigation.

(13) In the interest of effective inclusive cooperation between all supervisory authorities concerned and the lead supervisory authority, the **summary of key issues and the** comments of concerned supervisory authorities should be concise and worded in sufficiently clear and precise terms to be easily understandable to all supervisory authorities. The legal arguments should be grouped by reference to the part of the summary of key issues to which they relate. The **summary of key issues and the** comments of supervisory authorities concerned may be supplemented by additional documents. However, a mere reference in the comments of a supervisory authority concerned to supplementary documents ~~cannot~~ **should not** make up for the absence of the essential arguments in law or in fact which should feature in the comments. The basic legal and factual particulars relied on in such documents should be indicated, at least in summary form, coherently and intelligibly in the comment itself.

(14) Cases that do not raise contentious issues do not require extensive discussion between supervisory authorities in order to reach a consensus and could, therefore, be dealt with more quickly. When none of the supervisory authorities concerned raise comments on the summary of key issues, the lead supervisory authority should communicate the preliminary findings provided for in Article 14 within nine months.

(14a) Where the lead supervisory authority is required by national law to further engage in subsequent domestic procedures related to the same case, such as administrative appeal proceedings or misdemeanour proceedings, the summary of key issues should be prepared again if this domestic procedure conducts the lead supervisory authority to deviate from previous consensus, and would result in substantive changes compared to the previous summary of key issues, in order to take into account the views of the supervisory authorities concerned. However, if the subsequent procedure related to the same case involves no further changes in comparison to previous decisions, the new summary of key issues may not be necessary. The lead supervisory authority should inform the supervisory authority concerned of such a possibility when submitting a draft decision in accordance with Article 60(3) of Regulation (EU) 2016/679.

(15) Supervisory authorities should avail of all means necessary to achieve a consensus in a spirit of sincere and effective cooperation. Therefore, if there is a divergence in opinion between the supervisory authorities concerned and the lead supervisory authority regarding the scope of a complaint-based investigation, including the provisions of Regulation (EU) 2016/679 the infringement of which will be investigated, or where the comments of the supervisory authorities concerned relate to an important change in the complex legal or technological assessment, the concerned authority ~~should~~ **could** use the tools provided for under Articles 61 and 62 of Regulation (EU) 2016/679.

(16) If the use of those tools does not enable the supervisory authorities to reach a consensus on the scope of a complaint-based investigation, ~~the lead supervisory authority should request~~ an urgent binding decision of the Board under Article 66(3) of Regulation (EU) 2016/679 **should be requested by any supervisory authority concerned or the lead supervisory authority**. For this purpose, the requirement of urgency should be presumed. The lead supervisory authority should draw appropriate conclusions from the urgent binding decision of the Board for the purposes of preliminary findings. The urgent binding decision of the Board **in the context of deciding on the scope of a complaint-based investigation** cannot pre-empt the outcome of the investigation of the lead supervisory authority or the effectiveness of the rights of the parties under investigation to be heard. ~~In particular, the Board should not extend the scope of the investigation on its own initiative.~~

(16a) Complainant's procedural rights under this Regulation should be conferred on the complainant solely to the extent relative to his or her individual rights. Where Article 80(2) of Regulation (EU) 2016/679 applies, procedural rights should be conferred on the complainant pursuant to Article 80(2) of Regulation (EU) 2016/679 to the extent relative to the rights of the data subject that are considered to have been infringed.

(17) To enable the complainant to exercise her or his right to an effective judicial remedy under Article 78 of Regulation (EU) 2016/679, the supervisory authority fully or partially rejecting a complaint should do so by means of a decision which may be challenged before a national court.

(18) Complainants should have the opportunity to express their views before a decision adversely affecting them is taken. Therefore, in the event of full or partial rejection of a complaint in a cross-border case, the complainant should have the opportunity to make her or his views known prior to the submission of a draft decision under Article 60(3) of Regulation (EU) 2016/679, a revised draft decision under Article 60(4) of Regulation (EU) 2016/679 or a binding decision of the Board under Article 65(1), point (a), of Regulation (EU) 2016/679. The complainant may request access to the non-confidential version of the documents on which the decision fully or partially rejecting the complaint is based.

(19) It is necessary to clarify the division of responsibilities between the lead supervisory authority and the supervisory authority with which the complaint was lodged in the case of rejection of a complaint in a cross-border case. As the point of contact for the complainant during the investigation, the supervisory authority with which the complaint was lodged should obtain the views of the complainant on the proposed rejection of the complaint and should be responsible for all communications with the complainant. All such communications should be shared with the lead supervisory authority. Since under Article 60(8) and (9) of Regulation (EU) 2016/679 the supervisory authority with which the complaint was lodged has the responsibility of adopting the final decision rejecting the complaint, ~~that~~ **the lead** supervisory authority should **also have the possibility to ask for the assistance of the complaint receiving supervisory authority if necessary in** ~~also have the responsibility of~~ preparing the draft decision under Article 60(3) of Regulation (EU) 2016/679.

(20) The effective enforcement of Union data protection rules should be compatible with the full respect of the parties' rights of defence, which constitutes a fundamental principle of Union law to be respected in all circumstances, and in particular in procedures which may give rise to penalties.

(21) In order to effectively safeguard the right to good administration and the rights of defence as enshrined in the Charter of Fundamental Rights of the European Union ('the Charter'), including the right of every person to be heard before any individual measure which would affect him or her adversely is taken, it is important to provide for clear rules on the exercise of this right.

(21a) Member States may introduce into their national law provisions on the legal consequences of the failure of individuals to submit their observations within the time limit set by the supervisory authority with which the complaint was lodged.

(22) The rules regarding the administrative procedure applied by supervisory authorities when enforcing Regulation (EU) 2016/679 should ensure that the parties under investigation effectively have the opportunity to make known their views on the truth and relevance of the facts, objections and circumstances put forward by the supervisory authority throughout the procedure, thereby enabling them to exercise their rights of defence. The preliminary findings set out the preliminary position on the alleged infringement of Regulation (EU) 2016/679 following investigation. They thus constitute an essential procedural safeguard which ensures that the right to be heard is observed. The parties under investigation should be provided with the documents required to defend themselves effectively and to comment on the allegations made against them, by receiving access to the administrative file.

22(a) These rules should be without prejudice to the possibility for supervisory authorities to grant further access to the administrative file in order to hear further the views of any of the parties under investigation or of the complainant in the course of the proceedings, in accordance with national law.

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

(23a) Where the lead supervisory authority is required by national law to further engage in subsequent domestic procedures related to the same case, such as administrative appeal proceedings or misdemeanour proceedings, the preliminary findings should be prepared again if this domestic procedure conducts the lead supervisory authority to deviate from previous consensus, and would result in substantive changes compared to the previous preliminary findings, in order to enable the parties under investigation to properly defend themselves. However, if the subsequent procedure related to the same case involves no further changes in comparison to previous decisions and national law ensures the right to be heard, the new preliminary findings may not be necessary. The lead supervisory authority should inform the supervisory authority concerned of such a possibility when submitting a draft decision in accordance with Article 60(3) of Regulation (EU) 2016/679.

(24) The parties under investigation should be provided with a right to be heard prior to the submission of a revised draft decision under Article 60(5) of Regulation (EU) 2016/679 or the adoption of a binding decision by the Board pursuant to Article 65(1), point (a), of Regulation (EU) 2016/679.

(25) Complainants should be given the possibility to be associated with the proceedings initiated by a supervisory authority with a view to identifying or clarifying issues relating to a potential infringement of Regulation (EU) 2016/679. The fact that a supervisory authority has already initiated an investigation concerning the subject matter of the complaint or will deal with the complaint in an ex officio investigation subsequent to the receipt the complaint does not bar the qualification of a data subject as complainant. However, an investigation by a supervisory authority of a possible infringement of Regulation (EU) 2016/679 by a controller or processor does not constitute an adversarial procedure between the complainant and the parties under investigation. It is a procedure commenced by a supervisory authority, upon its own initiative or based on a complaint, in fulfilment of its tasks under Article 57(1) of Regulation (EU) 2016/679. The parties under investigation and the complainant are, therefore, not in the same procedural situation and the latter cannot invoke the right to a fair hearing when the decision does not adversely affect her or his legal position. The complainant's involvement in the procedure against the parties under investigation cannot compromise the right of these parties to be heard.

(26) The complainants should be given the possibility to submit in writing views on the preliminary findings **to the extent that their individual rights as data subject are considered to have been infringed**. However, they should not have access to business secrets or other confidential information belonging to other parties involved in the proceedings. Complainants should not be entitled to have generalised access to the administrative file.

(27) When setting deadlines for parties under investigation and complainants to provide their views on preliminary findings, supervisory authorities should have regard to the complexity of the issues raised in preliminary findings, in order to ensure that the parties under investigation and complainants have sufficient opportunity to meaningfully provide their views on the issues raised.

(28) The exchange of views prior to the adoption of a draft decision involves an open dialogue and an extensive exchange of views where supervisory authorities should do their utmost to find a consensus on the way forward in an investigation. Conversely, the disagreement expressed in relevant and reasoned objections pursuant to Article 60(4) of Regulation (EU) 2016/679, which raise the potential for dispute resolution between supervisory authorities under Article 65 of Regulation (EU) 2016/679 and delay the adoption of a final decision by the competent supervisory authority, should arise in the ~~exceptional~~ case of a failure of supervisory authorities to achieve a consensus and where necessary to ensure the consistent interpretation of Regulation (EU) 2016/679. Such objections should be used ~~sparingly,~~ when matters of consistent enforcement of Regulation (EU) 2016/679 are at stake, since every use of relevant and reasoned objections postpones the remedy for the data subject. Since the scope of the investigation and the relevant facts should be decided prior to the communication of preliminary findings, these matters should not be raised by supervisory authorities concerned in relevant and reasoned objections. They may, however, be raised by supervisory authorities concerned in their comments on the summary of key issues pursuant to Article 9(3), before preliminary findings are communicated to the parties under investigation.

~~(29) In the interest of the efficient and inclusive conclusion of the dispute resolution procedure, where all supervisory authorities should be in a position to contribute their views and bearing in mind the time constraints during dispute resolution, the form and structure of relevant and reasoned objections should meet certain requirements. Therefore, relevant and reasoned objections should be limited to a prescribed length, should clearly identify the disagreement with the draft decision and should be worded in sufficiently clear, coherent and precise terms.~~

(30) Access to the administrative file is provided for as a part of the rights of defence and the right to good administration enshrined in the Charter. Access to the administrative file should be provided to the parties under investigation when they are notified of preliminary findings and the deadline to submit their written reply to the preliminary findings should be set.

(31) When granting access to the administrative file **to parties under investigation and the complainant**, supervisory authorities should ensure the protection of ~~business~~ **trade** secrets and other confidential information. The category of other confidential information includes information other than ~~business~~ **trade** secrets, which may be considered as confidential **in accordance with national law**, insofar as its disclosure would significantly harm a controller, a processor or a natural person. **Confidential information shall in particular include information which is known only to a limited number of persons and which disclosure is liable to cause serious harm to the person who provided it or to third parties, and where the interests liable to be harmed by the disclosure of such information are, objectively, worthy of protection.** The supervisory authorities should be able to request that parties under investigation that submit or have submitted documents or statements identify confidential information.

(32) Where ~~business~~ **trade** secrets or other confidential information are necessary to prove an infringement, the supervisory authorities should assess for each individual document whether the need to disclose is greater than the harm which might result from disclosure. **In disclosing documents containing personal data, the supervisory authorities should also take into account the principle of data minimisation.**

(32a) Access to documents included in the administrative file on the basis of access to public documents shall be provided in accordance with Member States law. Until the final decision is adopted by the competent supervisory authority, the decision-making process of the authorities, including the performance of their tasks without undue external influence, shall be protected.

(33) When referring a subject-matter to dispute resolution under Article 65 of Regulation (EU) 2016/679, the lead supervisory authority should provide the Board with all necessary information to enable it to assess the admissibility of relevant and reasoned objections and to take the decision pursuant to Article 65(1), point (a), of Regulation (EU) 2016/679. Once the Board is in receipt of all the necessary documents listed in Article 23, the Chair of the Board should register the referral of the subject-matter in the sense of Article 65(2) of Regulation (EU) 2016/679.

(34) The binding decision of the Board under Article 65(1), point (a), of Regulation (EU) 2016/679 should concern exclusively matters which led to the triggering of the dispute resolution and be drafted in a way which allows the lead supervisory authority to adopt its final decision on the basis of the decision of the Board while maintaining its discretion.

(35) In order to streamline the resolution of disputes between supervisory authorities submitted to the Board under Article 65(1), points (b) and (c), of Regulation (EU) 2016/679, it is necessary to specify procedural rules regarding the documents to be submitted to the Board and on which the Board should base its decision. It is also necessary to specify when the Board should register the submission of the matter to dispute resolution.

(35a) When the Board sets a time limit for the parties under investigation or the complainant to make their views known, it would be appropriate for the Board to extend the period for the adoption of its decision, given that in such circumstances the need to take into account the views made known by the parties or the complainant always increases the complexity of the subject -matter, for the purposes of Article 65(2) of Regulation (EU) 2016/679.

(36) In order to streamline the procedure for the adoption of urgent opinions and urgent binding decisions of the Board under Article 66(2) of Regulation (EU) 2016/679, it is necessary to specify procedural rules regarding the timing of the request for an urgent opinion or urgent binding decision, the documents to be submitted to the Board and on which the Board should base its decision~~, to whom the opinion or decision of the Board should be addressed, and the consequences of the opinion or decision of the Board.~~**.**

(37) Chapters III and IV concern cooperation between supervisory authorities, the procedural rights of parties under investigation and the involvement of complainants. To ensure legal certainty, those provisions should not apply to investigations already under way at the time this Regulation enters into force. They should apply to *ex officio* investigations opened after the entry into force of this Regulation and to complaint-based investigations where the complaint was lodged after the entry into force of this Regulation. Chapter V provides procedural rules for cases submitted to dispute resolution under Article 65 of Regulation (EU) 2016/679. Also for reasons of legal certainty, this Chapter should not apply to cases that have been submitted to dispute resolution prior to the entry into force of this Regulation. It should apply to all cases submitted to dispute resolution after the entry into force of this Regulation.

(37a) The successful implementation of the Regulation requires adequate digital tools supporting the exchange of information in line with the Regulation. An appropriate secure common electronic communication system should be provided for all data protection authorities, which should build upon the experience gained in using the existing systems. The sufficient resources needed for the implementation of such communication system should be provided.

(38) The European Data Protection Supervisor and the European Data Protection Board were consulted in accordance with Article 42(2) of Regulation (EU) 2018/1725 and delivered a joint opinion on [**19th September 2023**],

HAVE ADOPTED THIS REGULATION:

Chapter I

General provisions

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 *ex officio* cases by supervisory authorities in the ~~cross-border~~ enforcement of Regulation (EU) 2016/679 **for cross-border processing.**

Article 2

Definitions

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

The following definitions shall also apply:

(1) 'parties 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 supervisory authority to the parties under investigation setting out the allegations, the relevant facts, supporting evidence, **preliminary** 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.

Chapter II

Submission and handling of complaints

Article 3

*~~Cross-border~~ **C**complaints **relating to cross-border processing***

1. ~~1.~~ **For a**~~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) 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 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 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 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.

~~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.*~~

Article 4

Investigation of complaints

While assessing the extent appropriate to which a complaint should be investigated in each case the **lead** supervisory authority **or, as the case may be, the supervisory authorities concerned,** 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~~ **handling the complaint in an effective and timely manner**;

(b) the ~~gravity~~**nature** of the alleged infringement;

(c) the systemic or repetitive ~~nature~~ **character** of the alleged infringement.

Article 5

~~*Amicable settlement*~~***Procedure for the early resolution of complaints relating to cross-border processing***

1. A complaint **relating to cross-border processing which concerns the exercice of data subjects' rights under Regulation (EU) 2016/679,** may be resolved **through a procedure allowing for its early resolution when:**

a) 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.

or,

b) the supervisory authority with which 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.

2. The early resolution of a complaint pursuant to paragraph 1 (a) may only apply when:

a) 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 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

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.

3. The early resolution of a complaint pursuant to paragraph 1 (b) may only apply when:

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

b) the complainant does not object to the 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 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.

5. 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.

~~*Article 6*~~

~~*Translations*~~

~~1. The supervisory authority with which the complaint was lodged shall be responsible for:~~

~~(a) translation of complaints and the views of complainants into the language used by the lead supervisory authority for the purposes of the investigation;~~

~~(b) translation of documents provided by the lead supervisory authority into the language used for communication with the complainant, where it is necessary to provide such documents to the complainant pursuant to this Regulation or Regulation (EU) 2016/679.~~

~~2. In its rules of procedure, the Board shall determine the procedure for the translation of comments or relevant and reasoned objections expressed by supervisory authorities concerned in a language other than the language used by the lead supervisory authority for the purposes of the investigation.~~

Chapter III

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

SECTION 1

General principles of cooperation

Article 6bis

Application of enhanced cooperation procedures

1. 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.

2. 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 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 cases handled pursuant to Article 56, paragraph 2 of Regulation (EU) 2016/679.

5. Articles 9 to 15 of this Regulation do not apply to complaint-based cases resolved pursuant to Article 5 of this Regulation.

SECTION 1 **BIS**

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

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~~ **cooperation** between supervisory authorities and ~~are~~ **do** not ~~intended to~~ confer rights on individuals or the parties under investigation.

Article 8

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

1. The lead supervisory authority shall regularly update the other supervisory authorities concerned about the investigation and provide the other supervisory authorities concerned, ~~at the earliest convenience~~, with all relevant information ~~once~~ **as soon as it becomes** available.

2. **In the course of the investigation, the lead supervisory authority and the supervisory authorities concerned shall exchange r**~~R~~elevant information within the meaning of Article 60(1) and (3) of Regulation (EU) 2016/679**, which** shall include, where applicable **and as soon as available**:

(a) information on the opening of an investigation of an alleged infringement of Regulation (EU) 2016/679;

(b) requests for information pursuant to Article 58(1), point (e) of Regulation (EU) 2016/679 **and related documents resulting from these requests**;

(c) information of the use of other investigative powers referred to in Article 58(1) of Regulation (EU) 2016/679 **and related documents resulting from the exercise of these powers**;

(d) in the case of envisaged rejection of complaint, the lead supervisory authority's reasons for rejection of the complaint;

(dd) the possible early resolution of the complaint pursuant to Article 5 of this Regulation;

(e) summary of key issues in an investigation **and related comments** in accordance with Article 9;

(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;

(f) information concerning steps **and legal analysis** 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 **non-confidential version of 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**;**.

(l) any other information deemed useful and relevant for the purpose of the investigation.

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.

Article 9

Summary of key issues

1. Once the lead supervisory authority has **sufficient elements to** form**ed** 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**, which shall include the following elements:**.

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) **where applicable,** identification of ~~complex~~ legal**, factual** and**/or** technological ~~assessments~~ **issues** which are relevant for preliminary orientation of their assessment;

(d) **where applicable,** preliminary identification of potential corrective measure(s).

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 auhtority has confirmed its competence 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 auhtority 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.~~

Article 10

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

1. Pursuant to Article 60(1) of Regulation (EU) 2016/679, the lead supervisory authority and supervisory authorities concerned shall endeavour to reach consensus on cross-border processing cases, in accordance with this Article, and may use all the means provided for in Regulation (EU) 2016/679, including mutual assistance pursuant to Article 61 and joint operations pursuant to Article 62 of Regulation (EU) 2016/679.

1a. In cases where none of the supervisory authorities concerned provided comments under Article 9, paragraph 3, of this 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.

1**b**. **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 to reach consensus** on:

(a) the scope of the investigation in complaint-based cases, including the provisions of Regulation (EU) 2016/679 concerned by the alleged infringement which will be investigated;

(b) ~~preliminary orientation in relation to complex~~**the** 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** month~~s~~ of the expiry of the period referred to in Article 9(~~3~~**4**).

2a. Where a request to conduct joint operations pursuant to Article 62 of Regulation (EU) 2016/679 is made by a concerned supervisory authority, the lead supervisory authority should respond to the request within one month.

3. The lead supervisory authority shall engage with the supervisory authorities concerned on the basis of their comments on the summary of key issues, and, where applicable, in response to requests under Article 61 and 62 of Regulation (EU) 2016/679, in an endeavour to reach a consensus. The consensus shall be used as a basis for the lead supervisory authority to continue the investigation and draft the preliminary findings or, where applicable, provide the supervisory authority with which the complaint was lodged with its reasoning for the purposes of Article 11(2).

4. Where, in a complaint-based investigation, 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~~**1**), 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 supervisory authority**. In th**ose**~~at~~ case**s**, 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(~~2~~**1**), ~~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.

6. The Board shall adopt an urgent binding decision on the scope of the investigation on the basis **of all the documents received.** ~~of the comments of the supervisory authorities concerned and the position of the lead supervisory authority on those comments~~.

6bis. 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 complexitiy 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.

SECTION 2

FULL OR PARTIAL REJECTION OF COMPLAINTS

Article 11

*~~Hearing of complainant prior to~~**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***

1. **Prior to submitting a draft decision pursuant to Article 60(3) of Regulation (EU) 2016/679,** ~~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 **dismissed or** fully or partially rejected.

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 continue its investigation in cooperation with the concerned supervisory authorities on the part of the complaint which remains to be investigated.

Article 12

*Revised draft decision **dismissing or** 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 **new** elements on which the complainant should have the opportunity to make her or his views known, the supervisory authority with which the complaint was 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**, following the same procedure as provided under Article 11 of this Regulation**.

2. ~~The supervisory authority with which the complaint was lodged shall set a time-limit within which the complainant may make known her or his views.~~

Article 13

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

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

2. The lead supervisory authority shall inform the controller of the decision adopted pursuant to Article 60(9) of Regulation (EU) 2016/679.

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 **include the main findings of the investigation and** present allegations raised in an exhaustive and sufficiently clear way to enable the parties under investigation to take cognisance of the conduct investigated by the lead supervisory authority. In particular, they must 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** a**n administrative** fine **in accordance with Article 83 of Regulation (EU) 2016/679**, **the lead supervisory authority shall list in the preliminary findings the main legal and factual elements, 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. **T**he 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 auhtority intends to deviate from previous consensus on the case.

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**, in accordance with Article 20 and 21,** and set a time-limit **of four weeks** within which the complainant may make known its views in writing. **Upon request of the complainant, the period shall be extended by another two weeks on account of the complexity of the case.**

1a. For the purpose of paragraph 1, administrative modalities and requirement under the national procedural law of the supervisory authority with which the complaint was lodged shall continue to apply.

~~2. Paragraph 1 shall 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 documents provided pursuant to paragraph 3, the complainant shall send to the lead supervisory authority a confidentiality declaration, where the complainant commits himself or herself not to disclose any information or assessment made in the non-confidential version of preliminary findings or to use those findings for purposes other than the concrete investigation in which those findings were issued.~~

Article 16

Adoption of final decision

1. After submitting the draft decision to supervisory authorities concerned pursuant to Article 60(3) of Regulation (EU) 2016/679 and where none of the supervisory authorities concerned has objected 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**, within one month,** 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. **The supervisory authority with which the complaint was lodged shall inform the complainant of the decision.**

2. Where the lead supervisory authority and the supervisory authorities 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.

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

2. The lead supervisory authority shall set a time-limit **of four weeks** within which the parties under investigation may make known their views. **Upon request of the parties under investigation, the period shall be extended by two week on account of the complexity of the case.**

2bis. The lead supervisory authority shall inform the supervisory authorities concerned of the views made by the parties under investigation.

SECTION 4

RELEVANT AND REASONED OBJECTIONS

Article 18

Relevant and reasoned objections

1. Relevant and reasoned objections within the meaning of Article 4(24) of Regulation (EU) 2016/679 shall:

   (a) be based ~~exclusively~~ on factual **and legal** elements included in the draft decision**, taking into account the comments relating to the summary of key issues and the preliminary findings**; and

   (b) not ~~change~~ **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.~~

   (c) not concern a draft decision adopted in accordance with the conditions pursuant to Article 5 of this Regulation.

2. Notwithstanding point (b) of paragraph 1, a supervisory authority concerned may provide relevant and reasoned objections that concern the scope of an investigation as referred to in point (b) of paragraph 1, provided that, in duly justified cases:

   – **the lead supervisory authority has failed to investigate all the elements of the summary of key issues agreed pursuant to Article 10(1a) or 10(3), or has failed to comply with the binding decision of the Board under Article 10 (6).**

or,

– **additional new elements not available at the time of agreeing on the summary of key issues pursuant to Article 10(1a) or 10(3), or at the time of the binding decision of the Board under Article 10 (6), demonstrate a significant risk posed by the draft decision as regards the fundamental rights and freedom of the data subject and, where applicable, the free flow of personal data within the Union;**

or both

~~2. The form and structure of 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

Article 19

Content of the administrative file

1. The administrative file in an investigation concerning an alleged infringement of Regulation (EU) 2016/679 consists of ~~all~~ **the** documents which have been obtained~~,~~ **or** produced **by the concerned supervisory authorities and the lead supervisory authority,** and~~/or~~ assembled by the lead supervisory authority during the ~~investigation~~ **procedure, including inculpatory and exculpatory documents**. **The administrative file shall not include internal communication within a supervisory authority or internal drafts.**

~~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.~~

Article 20

*Access to the administrative file ~~and use of documents~~**by parties under investigation and the complainant***

1. **Upon~~T~~ request of the parties under investigation, or the complainant where the decision is liable to affect his or her interests adversely, t**he lead supervisory authority shall grant access to the administrative file to the parties under investigation**, or the complainant**, enabling them to exercise their right to be heard. ~~Access to the administrative file shall be granted after the lead supervisory authority notifies the preliminary findings to the parties under investigation.~~

~~2. The administrative file shall include all documents, inculpatory and exculpatory, including facts and documents which are known to the parties under investigation.~~

3. The conclusions of the lead supervisory authority in the draft decision under Article 60(3) of Regulation (EU) 2016/679 and the final decision under Article 60(7) of Regulation (EU) 2016/679 ~~may~~ **shall** only rely on documents cited in the preliminary findings or on **elements on** which the parties under investigation had the opportunity to make their views known.

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.

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 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.

~~4. Documents obtained through access to the administrative file pursuant to this Article shall be used only for the purposes of judicial or administrative proceedings for the application of Regulation (EU) 2016/679 in the specific case for which such documents were provided.~~

Article 21

Identification and protection of confidential information

1. Unless otherwise provided in this Regulation, **any** information collected**, produced** 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 **to the parties under the investigation or to the complainant** in so far as it contains ~~business~~ **trade** secrets **as defined in directive (EU) 2016/943** or other confidential information **in accordance with Union and Member State law** ~~of any person.~~

2. Any information collected**, produced** or obtained by a supervisory authority in cross-border cases under Regulation (EU) 2016/679 **referred to in paragraph 1**, including any document containing such information, **shall not be disclosed, unless required by Union or Member State law,** ~~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 to the rights of defence of the parties under investigation with due regard for the confidentiality of the information~~.

4. ~~An entity~~**A party under investigation, a complainant, or a third party** submitting information that it considers to be confidential shall clearly identify the information which it considers to be confidential, giving reasons for the confidentiality claimed. The ~~entity~~ **party under investigation, complainant, or third party** shall provide a separate non-confidential version of the submission.

5. Without prejudice to paragraph 4, the ~~lead~~ supervisory authority **to which the information is submitted** may require the parties under investigation, or any other party which produces documents pursuant to Regulation (EU) 2016/679, to identify the documents or parts of documents which they consider to contain ~~business~~ **trade** secrets or other confidential information belonging to them and to identify the parties for which these documents are considered to be confidential.

6. The ~~lead~~ supervisory authority **to which the information is submitted** ~~may~~ **shall** set a time-limit for parties under investigation and any other party raising a confidentiality claim to:

   (a) substantiate their claims for ~~business~~ **trade** secrets and other confidential information for each individual document or part of document, statement, or part of statement;

   (b) provide 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 paragraph 1, and shall inform the other supervisory authorities about the confidential nature of the information when transmitted.

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.

Chapter V

Dispute resolution

Article 22

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

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

1a. Within three months after the expiry of the period set out by Article 60(4) of Regulation (EU) 2016/679, the lead supervisory authority shall either submit a revised draft pursuant to Article 60 (5) of Regulation (EU) 2016/679 to the other supervisory authorities concerned or refer the subject-matter to the Board for dispute resolution under Article 65 (1) (a) of Regulation (EU) 2016/679.

1b. Within three months after the expiry of the period set out by Article 60(5) of Regulation 2016/679, the lead supervisory authority shall either submit another revised draft decision under 60 (5) of Regulation (EU) 2016/679 or refer the subject-matter to the Board for dispute resolution under Article 65 (1) (a) of Regulation (EU) 2016/679.

2. When referring the subject-matter to dispute resolution **under Article 65, pargraph 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 objections which were not followed **or rejected** by the lead supervisory authority **and the objections that the lead supervisory authority has rejected as being neither relevant nor reasoned**;

(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.

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.

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 under Article 65(1), point (a), of Regulation (EU) 2016/679

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 **referred to in Article 22, pargraph 2 and 2a, and the retained relevant and reasoned objections.**~~:~~

~~(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.~~

2. As soon as the file is registered by the Chair of the Board, it shall be provided to the members of the Board.

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 pursuant to Article 65(1), point (a), of Regulation (EU) 2016/679, **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.**

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.

1ter. ~~Where the Board intends to adopt a binding decision requiring the lead supervisory authority to amend its draft decision or revised draft decision, T~~**T**he 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

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**, inlcuding regarding the processing at stake**;

   (b) the assessment of these facts as far as the conditions of Article 56(1) of Regulation (EU) 2016/679 are concerned**, in particular the assessment as to whether the processing is to be considered as a cross-border processing and as to where the main establishment of the controller or processor is located**;

   (c) views made by the controller or processor whose main establishment is the subject of the referral;

   (d) the views of other supervisory authorities concerned by the referral;

   (e) any other document or information the referring supervisory authority considers relevant and necessary in order to find a resolution on the subject-matter.

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

2. The Chair of the Board shall register the referral no later than one week after having received the documents referred to in paragraph**s** 1 **and 1a**.

3. As soon as the file is registered by the Chair of the Board, it shall be provided to the members of the Board.

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.

Article 26

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

1. When referring a subject-matter to the Board under Article 65(1), point (c), of Regulation 2016/679, the supervisory authority referring the subject-matter or the Commission shall provide the Board with all of the following documents:

   (a) a summary of the relevant facts;

   (b) the opinion, as the case may be, issued by the Board pursuant to Article 64 of Regulation (EU) 2016/679;

   (ba) the decision, as the case may be, adopted by the competent supervisory authority following the opinion issued by the Board pursuant to Article 64 of Regulation (EU) 2016/679

(c) the views of the supervisory authority referring the subject-matter or the Commission as to whether, as the case may be, a supervisory authority was required to communicate the draft decision to the Board pursuant to Article 64(1) of Regulation (EU) 2016/679, or a supervisory authority did not follow an opinion of the Board issued pursuant to Article 64 of Regulation (EU) 2016/679.

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 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.

4. As soon as the file is registered by the Chair of the Board, it shall be provided to the members of the Board.

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~~ **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 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.

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

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.

1ter. As soon as the file is registered by the Chair of the Board, it shall be provided to the members of the Board.

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

Article 28

*Urgent **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 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(~~3~~**5**) or 62(2) of Regulation (EU) 2016/679;

(e) where the requesting authority is not the lead supervisory authority, the views of the lead supervisory authority;

(f) where applicable, the views of the local establishment of the parties under investigation ~~against~~ which provisional measures were taken pursuant to Article 66(1) of Regulation (EU) 2016/679.

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

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

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.

~~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 should be adopted, the supervisory authority to which the decision is addressed shall adopt such measures prior to the expiry of the provisional measures adopted under Article 66(1) of Regulation (EU) 2016/679.

4. ~~The supervisory authority that submitted the request referred to in paragraph 1 shall notify its decision on the final measures to the establishment of the controller or processor on the territory of its Member State and inform the Board. Where the lead supervisory authority is not the requesting authority, the requesting authority shall inform the lead supervisory authority of the final measure~~.

5. Where the urgent binding decision indicates that final measures do not urgently need to be adopted, the lead and supervisory authorities concerned shall follow the procedure in Article 60 of Regulation (EU) 2016/679.

Article 28bis (new)

Urgent decisions under Article 66(3) of Regulation (EU) 2016/679

1. 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:

(a) a summary of the relevant facts;

(b) the justification of the urgent need to take appropriate measures in order to protect the rights and freedoms of data subjects, bearing in mind the exceptional 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;

(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;

(d) where the requesting authority is not the lead supervisory authority, the views of the lead supervisory authority.

2. Where appropriate, the Board may request further documents from the supervisory authority concerned or the lead supervisory authority.

3. The Chair of the Board shall register the referral no later than one week after having received the documents referred to in paragraphs 1 and 2. As soon as the file is registered by the Chair of the Board, it shall be provided to the members of the Board.

4. 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.

5. 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 and within a maximum of one month as provided under Article 65(6) of Regulation 2016/679.

Chapter VII

General and final provisions

~~*Article 29*~~

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

~~1. Time-limits provided for in or fixed by the supervisory authorities pursuant to Regulation (EU) 2016/679 shall be calculated in accordance with Regulation (EEC, Euratom) No 1182/71 of the Council[4].~~

~~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 29bis

Commission report

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

~~[4] Regulation (EEC, Euratom) No 1182/71 of the Council of 3 June 1971 determining the rules applicable to periods, dates and time limits (OJ L 124, 8.6.1971, p. 1).~~

Article 30

Transitional provisions

Chapters III and IV shall apply to *ex officio* investigations opened after **18 months after the date of entry into force of this Regulation** ~~the entry into force of this Regulation~~ and to complaint-based investigations where the complaint was lodged after **18 months after the date of entry into force of this Regulation** ~~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 **18 months after the date of entry into force of this Regulation.** ~~the entry into force of this Regulation~~.

Article 31

*Entry into force **and application***

1. This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

2. This Regulation shall 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.

Done at Brussels,

For the European Parliament	*For the Council*
The President	*The President*

~~ANNEX~~

~~Complaint submitted on the basis of Article 3~~[5]
~~Part A: Mandatory information~~
~~1. Identification of person or entity filing the complaint~~ ~~Where the complainant is a natural person, submit a form of identification.~~[6] ~~Where the complaint is submitted by a body referred to in Article 80 of Regulation (EU) 2016/679, submit proof that the body has been properly constituted in accordance with the law of a Member State.~~ ~~Where the complaint is submitted on the basis of Article 80(1) of Regulation 2016/679, proof that the body lodging the complaint is acting on the basis of the mandate of a data subject.~~
~~2. Contact details~~[7] ~~Where the complaint is submitted electronically, email address.~~ ~~Where the complaint is submitted by post, postal address.~~ ~~Telephone number.~~
~~3. Entity whose processing of your personal data infringes Regulation (EU) 2016/679~~ ~~Provide all information in your possession to facilitate the identification of the entity which is the subject of your complaint.~~

~~5 The complaint should be completed and submitted electronically or completed and submitted to the supervisory authority by post.~~

~~6 For example, passport, driving licence, national ID.~~

~~7 In the case a complaint is submitted by a body referred to in Article 80 of Regulation (EU) 2016/679, all of the information in point 2 should be provided.~~

4. Subject of complaint

Please set out the facts from which, in your opinion, there is or was processing of your personal data which infringes Regulation (EU) 2016/679 (the GDPR). Indicate in particular the context in which your personal data were processed.

Part B: Supplementary information

If possible, indicate the provisions of Regulation (EU) 2016/679 (the GDPR) which you consider have been breached by the entity processing your personal data.

Please specify whether you have contacted the entity mentioned in point 3 of Part A prior to your complaint and outline the result of any such actions. If possible, please attach any relevant correspondence between you and the entity.

Please specify whether you have started other administrative and/or judicial proceedings regarding the subject matter of your complaint. If so, please provide an explanation of the status, and, where relevant, outcome of such actions.

Submit all documentation in your possession relating to the facts set out in the complaint (for example, copy of the documents attesting the relationship with the data controller (e.g. invoices, contracts); copy of any marketing messages or e-mails; pictures, photographs or screenshots; expert reports; witness reports; inspection reports).

Part C: Declaration and signature

Please confirm that the information given in this form is given entirely in good faith.

Date and signature.