

## Correcting flaws in the Commission's proposal for a regulation laying down additional procedural rules relating to the enforcement of the GDPR

Our analysis of the Commission's proposal for procedural harmonisation on cross-border enforcement indicates four significant flaws.

1. The Proposal removes complainants almost entirely from the process, and gives controllers exclusive rights to access the file and to be heard;
2. limits the power of other Member States' supervisory authorities to intervene in a lead authority's case and their access to materials, and avoids strict deadlines;

3. allows a lead authority to settle major cases without investigation;
4. prevents authorities from accumulating evidence for future cases and allows a lead authority to remove documents from the file.

Please find below our suggested amendments to correct these flaws. We would be delighted to meet with you and your team to discuss this.

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Subject	Commission's proposed text	ICCL's suggested amendments	Justification
1. Definitions	<b>Article 2(1)</b> <del>'parties under investigation'</del> means the controller(s) and/or processor(s) investigated for alleged infringement of Regulation (EU) 2016/679 related to cross-border processing;	<b>Article 2 (1)</b> <b>'respondent'</b> means the controller(s) and/or processor(s) investigated for alleged infringement of Regulation (EU) 2016/679 related to cross-border processing;	Complainants should be parties to the procedure, to ensure equality of arms, and that the best quality information is available to supervisory authorities throughout the procedure. Moreover, complainants have the right to be heard under Article 52(1) of the Charter, and the Commission must conduct an impact assessment before depriving them of this right.
		<b>Article 2(1a)</b> <b>'complainants' means the person who has lodged a complaint under Article 77 of Regulation EU (2016/679);</b>	
		<b>Article 2(1b)</b> <b>'parties' means the complainant(s) and respondent(s)</b>	
	Article 2(3) 'preliminary findings' means the document provided by the lead supervisory authority to the parties under investigation setting out the allegations, the relevant facts, supporting evidence, legal analysis, and, where applicable, proposed corrective measures;	<b>[Deleted]</b>	Definition not required.
2. Investigation	<b>Article 4</b> Investigation of complaints  While assessing the extent appropriate to which a complaint should be investigated in each case the supervisory authority shall take into account all relevant circumstances, including all of the following:	<b>Article 4</b> Investigation of complaints  <b>1.</b> While assessing the extent appropriate to which a complaint should be investigated in each case the supervisory authority shall take into account all relevant circumstances, including all of the following:	The concept of "expediency" is not precise. Instead, a nine month deadline should be introduced for LSAs to deliver a draft decision.

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	<p>2. Relevant information within the meaning of Article 60(1) and (3) of Regulation (EU) 2016/679 shall include, where applicable:</p> <ul style="list-style-type: none"> <li>(a) information on the opening of an investigation of an alleged infringement of Regulation (EU) 2016/679;</li> <li>(b) requests for information pursuant to Article 58(1), point (e) of Regulation (EU) 2016/679;</li> <li>(c) information of the use of other investigative powers referred to in Article 58(1) of Regulation (EU) 2016/679;</li> <li>(d) in the case of envisaged rejection of complaint, the lead supervisory authority's reasons for rejection of the complaint;</li> <li>(e) summary of key issues in an investigation in accordance with Article 9;</li> <li>(f) information concerning steps aiming to establish an infringement of Regulation (EU) 2016/679 prior to the preparation of preliminary findings;</li> <li>(g) preliminary findings;</li> <li>(h) the response of the parties under investigation to the preliminary findings;</li> <li>(i) the views of the complainant on the preliminary findings;</li> <li>(j) in the case of rejection of a complaint, the written submissions of the complainant;</li> <li>(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.</li> </ul>	<p>information once available.</p> <p>2. Relevant information within the meaning of Article 60(1) and (3) of Regulation (EU) 2016/679 shall include, where applicable:</p> <ul style="list-style-type: none"> <li>(a) information on the opening of an investigation of an alleged infringement of Regulation (EU) 2016/679;</li> <li>(b) requests for information pursuant to Article 58(1), point (e) of Regulation (EU) 2016/679;</li> <li>(c) information of the use of other investigative powers referred to in Article 58(1) of Regulation (EU) 2016/679;</li> <li>(d) in the case of envisaged rejection of complaint, the lead supervisory authority's reasons for rejection of the complaint;</li> <li>(e) summary of key issues in an investigation in accordance with Article 9;</li> <li>(f) information concerning steps aiming to establish an infringement of Regulation (EU) 2016/679 prior to the preparation of preliminary findings;</li> <li>(g) preliminary findings;</li> <li>(h) the response of the parties under investigation to the preliminary findings;</li> <li>(i) the views of the complainant on the preliminary findings;</li> <li>(j) in the case of rejection of a complaint, the written submissions of the complainant;</li> <li>(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.</li> </ul>	
5. Non contentious cases	<p><b>Article 9(6)</b></p> <p>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</p>	<p><b>Article 9(6)</b></p> <p>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</p>	Rapid decision-making requires shorter deadlines.

	parties <b>under investigation</b> within <b>9</b> months of the expiry of the deadline provided for in paragraph 3 of this Article.	communicated to the parties within <b>3</b> months of the expiry of the deadline provided for in paragraph 3 of this Article.	
6. EDPB access to documents	Article 10(5) When requesting an urgent binding decision of the Board pursuant to paragraph 4 of this Article, the lead supervisory authority shall provide all of the following: (a) the documents referred to in Article 9(2), points (a) and (b); (b) the comments of the supervisory authority concerned that disagrees with the lead supervisory.	<b>Article 10(5)</b> When requesting an urgent binding decision of the Board pursuant to paragraph 4 of this Article, the lead supervisory authority shall provide all of the following: (a) the documents referred to in Article 9(2), points (a) and (b); (b) the comments of the supervisory authority concerned that disagrees with the lead supervisory; (c) <b>access to the administrative file.</b>	To guarantee that the highest quality of information is available to the EDPB, it should have full access to the full administrative file.
7. Rejecting a complaint	<b>Article 12</b> <del>Revised draft decision fully or partially rejecting a complaint</del>  1. <del>Where the lead supervisory authority considers that the revised draft decision within the meaning of Article 60(5) of Regulation (EU) 2016/679 raises elements on which the complainant should have the opportunity to make her or his views known, the supervisory authority with which the complaint was lodged shall, prior to the submission of the revised draft decision under Article 60(5) of Regulation (EU) 2016/679, provide the complainant with the possibility to make her or his views known on such new elements.</del> 2. <del>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.</del>	<b>[Deleted]</b>	This is not necessary because complainants are full parties, and therefore have the right to make their views known throughout the procedure.
8. Preliminary findings	<b>Article 14(2)</b> The preliminary findings shall present allegations raised in an exhaustive and sufficiently clear way to enable the parties <b>under investigation</b> 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 <b>parties under investigation</b> , so that they can express their views on the facts and the legal conclusions the lead supervisory authority intends to draw in the draft decision within the meaning of Article 60(3) of Regulation (EU) 2016/679, and list all the evidence it relies upon.  The preliminary findings shall indicate corrective measures the lead supervisory authority intends to use.	<b>Article 14(2)</b> The preliminary findings shall present allegations raised in an exhaustive and sufficiently clear way to enable the parties 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 <b>respondent</b> , so that they can express their views on the facts and the legal conclusions the lead supervisory authority intends to draw in the draft decision within the meaning of Article 60(3) of Regulation (EU) 2016/679, and list all the evidence it relies upon.  The preliminary findings shall indicate corrective measures the lead supervisory authority intends to use.	All parties should be notified.

	Where the lead supervisory authority intends to impose a <b>fine</b> , it shall list in the preliminary findings the relevant elements on which it relies <del>while calculating the fine</del> . In particular, the lead supervisory authority shall list the essential facts and matters of law which may result in the imposition of the <b>fine</b> and the elements listed in Article 83(2) of Regulation (EU) 2016/679, including any aggravating or mitigating factors it will take into account.	Where the lead supervisory authority intends to impose a <b>sanction</b> , it shall list in the preliminary findings the relevant elements on which it relies. In particular, the lead supervisory authority shall list the essential facts and matters of law which may result in the imposition of the <b>sanction</b> and the elements listed in Article 83(2) of Regulation (EU) 2016/679, including any aggravating or mitigating factors it will take into account.	Respondents should be given adequate information to understand the basis of any significant sanction – not only fines. Contrary to the Commission’s view, fines are not the gravest sanction under Regulation (EU) 2016/679.
	<b>Article 14(3)</b> The lead supervisory authority shall notify preliminary findings to each of the parties <b>under investigation</b> .	<b>Article 14(3)</b> The lead supervisory authority shall notify preliminary findings to each of the parties.	All parties should be notified.
	<b>Article 14(4)</b> The lead supervisory authority shall, when notifying the preliminary findings to the parties <b>under investigation</b> , set a time-limit within which these parties may provide their views in writing. The lead supervisory authority shall not be obliged to take into account written views received after the expiry of that time-limit.	<b>Article 14(4)</b> The lead supervisory authority shall, when notifying the preliminary findings to the parties, set a time-limit within which these parties may provide their views in writing. The lead supervisory authority shall not be obliged to take into account written views received after the expiry of that time-limit.	All parties have the right to be heard.
	<b>Article 14(5)</b> <del>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.</del>	<b>[Deleted]</b>	Not required.
	<b>Article 14(6)</b> The parties <b>under investigation</b> may, in their written reply to preliminary findings, set out all facts and legal arguments known to them which are relevant <del>to their defence against the allegations of the lead supervisory authority</del> . 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 <b>under investigation</b> have been given the opportunity to comment.	<b>Article 15(6)</b> The parties may, in their written reply to preliminary findings, set out all facts and legal arguments known to them which are relevant. 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 have been given the opportunity to comment.	This applies to all parties, not only those who are under investigation.
	<b>Article 15</b> <del>Transmission of preliminary findings to complainants</del> <del>1. Where the lead supervisory authority issues preliminary findings relating to a matter in</del>	<b>[Deleted]</b>	Not required.

	<p>respect of which it has received a complaint, the supervisory authority with which the complaint was lodged shall provide the complainant with a non-confidential version of the preliminary findings and set a time limit within which the complainant may make known its views in writing.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p>		
9. Draft decision	Article 17 (1)	Article 17 (1)	All parties should have the right to be heard

	Where the lead supervisory authority considers that the revised draft decision within the meaning of Article 60(5) of Regulation (EU) 2016/679 raises elements on which the parties <del>under investigation</del> 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 <del>under investigation</del> with the possibility to make their views known on such new elements.	Where the lead supervisory authority considers that the revised draft decision within the meaning of Article 60(5) of Regulation (EU) 2016/679 raises elements on which the parties 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 with the possibility to make their views known on such new elements.	
10. Objections	<b>Article 18(1)</b> <b>Relevant and reasoned objections</b> Relevant and reasoned objections within the meaning of Article 4(24) of Regulation (EU) 2016/679 shall: <ul style="list-style-type: none"> <li>(a) be based exclusively on factual elements included in the draft decision; and</li> <li>(b) not change the scope of the <b>allegations 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.</b></li> </ul>	<b>Article 18(1)</b> <b>Relevant and reasoned objections</b> Relevant and reasoned objections within the meaning of Article 4(24) of Regulation (EU) 2016/679 shall: <ul style="list-style-type: none"> <li>(a) be based exclusively on factual elements included in the draft decision, <b>the joint case file, or any additional evidence attached to a CSA's submission of a relevant and reasoned objection;</b></li> <li>(b) <b>clearly identify elements of a decision that should be changed, including when possible the precise wording of the proposed change or a sufficiently precise description of the proposed change to the draft decision.</b></li> </ul>	<p>To ensure a high quality of decision making, CSAs must be able to provide the LSA with additional information that the CSA may generate when considering a draft decision. This information must not be excluded.</p> <p>CSAs should be at liberty to make their views known in the manner that they deem necessary.</p>
	<b>Article 18(2)</b> <del>1. The form and structure of relevant and reasoned objections shall meet all of the following requirements:</del> <del>(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;</del> <del>(b) the disagreement of the supervisory</del>	<del>[Deleted]</del>	



	<p><del>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;</del></p> <p><del>(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.</del></p>		
11. Administrative file	<p><del>Article 19 (2)</del></p> <p><del>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.</del></p>	[Deleted]	It should not be possible to remove materials from the file.
	<p><del>Article 19 (3)</del></p> <p><del>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.</del></p>	[Deleted]	All correspondence regarding the procedure should be part of the file, and should be available to the parties in the procedure.
	<p><b>Article 20(1)</b></p> <p>The lead supervisory authority shall grant access to the administrative file to the parties <del>under investigation</del>, enabling them to exercise their right to be heard. <del>Access to the administrative file shall be granted after the lead</del></p>	<p><b>Article 20(1)</b></p> <p><b>Throughout the procedure</b>, the lead supervisory authority shall grant access to the administrative file to the parties, enabling them to exercise their right to be heard.</p>	All parties should have access to the file throughout the procedure.



	<del>supervisory authority notifies the preliminary findings to the parties under investigation.</del>		All parties should have the right to be heard.
	<b>Article 20(2)</b> The administrative file shall include all documents, inculpatory and exculpatory, including facts and documents which are known to the parties <del>under investigation.</del>	<b>Article 20(2)</b> The administrative file shall include all documents, inculpatory and exculpatory, including facts and documents which are known to the parties.	
	<b>Article 20(3)</b> The conclusions of the lead supervisory authority in the draft decision under Article 60(3) of Regulation (EU) 2016/679 and the final decision under Article 60(7) of Regulation (EU) 2016/679 may only rely on documents cited in the preliminary findings or on which the parties <del>under investigation</del> had the opportunity to make their views known.	<b>Article 20(3)</b> The conclusions of the lead supervisory authority in the draft decision under Article 60(3) of Regulation (EU) 2016/679 and the final decision under Article 60(7) of Regulation (EU) 2016/679 may only rely on documents cited in the preliminary findings or on which the parties had the opportunity to make their views known.	
	<b>Article 20(4)</b> <del>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.</del>	<b>[Deleted]</b>	
12. Confidentiality	<b>Article 21</b> Identification and protection of confidential information  <del>1. Unless otherwise provided in this Regulation, information collected or obtained by a supervisory authority in cross-border cases under of Regulation (EU) 2016/679, including any document containing such information, shall not be communicated or made accessible by the supervisory authority in so far as it contains business secrets or other confidential information of any person.</del>  <del>2. Any information collected or obtained by a supervisory authority in cross-border cases under Regulation (EU) 2016/679, including any document containing such information, is excluded from access requests under laws on public access to official documents as long as the</del>	<b>Article 21</b> Identification and protection of confidential information  <b>Where a respondent claims business secrets, the LSA may decide at its discretion to limit access to the information by other parties.</b>  <b>The party claiming confidentiality shall provide a non-confidential version of any information. In doing so, it shall apply only strictly proportionate measures, such as redacting the minimal amount of text in a document. The LSA shall decide whether redactions are strictly proportionate, and may at its own discretion deem the information suitable for distribution to all parties. Supervisory Authorities shall inform all parties about the existence of any withheld information.</b>	Confidentiality should be proportionate and minimised to ensure the highest quality of information is available to parties, ensuring equality of arms and allowing the LSA to benefit from the most informed submissions from all parties.

	<p><del>proceedings are ongoing.</del></p> <p><del>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.</del></p> <p><del>4. An entity submitting information that it considers to be confidential shall clearly identify the information which it considers to be confidential, giving reasons for the confidentiality claimed. The entity shall provide a separate non-confidential version of the submission.</del></p> <p><del>5. Without prejudice to paragraph 4, the lead supervisory authority may require the parties under investigation, or any other party which produces documents pursuant to Regulation (EU) 2016/679, to identify the documents or parts of documents which they consider to contain business secrets or other confidential information belonging to them and to identify the parties for which these documents are considered to be confidential.</del></p> <p><del>6. The lead supervisory authority may set a time limit for parties under investigation and any other party raising a confidentiality claim to:</del></p> <p><del>(a) substantiate their claims for business secrets and other confidential information</del></p>		
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	<p><del>for each individual document or part of document, statement, or part of statement;</del></p> <p><del>(b) provide a non-confidential version of the documents and statements, in which the business secrets and other confidential information are redacted;</del></p> <p><del>(c) provide a concise, non-confidential, description of each piece of redacted information.</del></p> <p><del>7. If the parties under investigation or any other party fails to comply with paragraphs 4 and 5, the lead supervisory authority may assume that the documents or statements concerned do not contain business secrets or other confidential information.</del></p>		
13. Dispute resolution	<p><b>Article 22 (2)</b> When referring the subject-matter to dispute resolution, the lead supervisory authority shall provide the Board with all of the following documents:</p> <ul style="list-style-type: none"> <li>(a) the draft decision or revised draft decision subject to the relevant and reasoned objections;</li> <li>(b) a summary of the relevant facts;</li> <li>(c) the preliminary findings;</li> <li>(d) view made in writing by the parties under investigation, as the case may be, pursuant to Articles 14 and 17;</li> <li>(e) views made in writing by complainants, as the case may be, pursuant to Articles 11, 12, and 15;</li> <li>(f) the relevant and reasoned objections which were not followed by the lead supervisory authority;</li> <li>(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.</li> </ul>	<p><b>Article 22 (2)</b> When referring the subject-matter to dispute resolution, the lead supervisory authority shall provide the Board with all of the following documents:</p> <ul style="list-style-type: none"> <li>(a) the draft decision or revised draft decision subject to the relevant and reasoned objections;</li> <li>(b) a summary of the relevant facts;</li> <li>(c) the preliminary findings;</li> <li>(d) view made in writing by the parties under investigation, as the case may be, pursuant to Articles 14 and 17;</li> <li>(e) views made in writing by complainants, as the case may be, pursuant to Articles 11, 12, and 15;</li> <li>(f) the relevant and reasoned objections which were not followed by the lead supervisory authority;</li> <li>(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;</li> <li>(h) <b>access to the administrative file.</b></li> </ul>	To guarantee that the highest quality of information is available to the EDPB, it should have full access to the full administrative file.
	<p><b>Article 23</b> 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:</p>	<p><b>Article 23</b> 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:</p>	To guarantee that the highest quality of information is available to the EDPB, it should have full access to the full administrative file, and the views of all parties.

	<p>(a) the draft decision or revised draft decision subject to the relevant and reasoned objections;</p> <p>(b) a summary of the relevant facts;</p> <p>(c) view made in writing by the parties <del>under investigation, as the case may be, pursuant to Articles 14 and 17;</del></p> <p>(d) views made in writing by complainants, as the case may be, pursuant to Articles 11, 12 and 15;</p> <p>(e) the retained relevant and reasoned objections;</p> <p>(f) the reasons on the basis of which the lead supervisory authority did not follow the retained relevant and reasoned objections.</p>	<p>(a) the draft decision or revised draft decision subject to the relevant and reasoned objections;</p> <p>(b) a summary of the relevant facts;</p> <p>(c) view made in writing by the parties;</p> <p>(d) views made in writing by complainants, as the case may be, pursuant to Articles 11, 12 and 15;</p> <p>(e) the retained relevant and reasoned objections;</p> <p>(f) the reasons on the basis of which the lead supervisory authority did not follow the retained relevant and reasoned objections;</p> <p><b>(g) full access to the administrative file.</b></p>	
	<p><b>Article 24(2)</b></p> <p>Prior to adopting the binding decision pursuant to Article 65(1), point (a), of Regulation (EU) 2016/679, the Chair of the Board shall, through the lead supervisory authority, provide the parties <del>under investigation and/or, in the case of full or partial rejection of a complaint, the complainant,</del> with a statement of reasons explaining the reasoning the Board intends to adopt in its decision. Where the Board intends to adopt a binding decision requiring the lead supervisory authority to amend its draft decision or revised draft decision, the Board shall decide whether such statement of reasons should be accompanied by the retained relevant and reasoned objections on the basis of which the Board intends to adopt its decision.</p>	<p><b>Article 24(2)</b></p> <p>Prior to adopting the binding decision pursuant to Article 65(1), point (a), of Regulation (EU) 2016/679, the Chair of the Board shall, through the lead supervisory authority, provide the parties with a statement of reasons explaining the reasoning the Board intends to adopt in its decision. Where the Board intends to adopt a binding decision requiring the lead supervisory authority to amend its draft decision or revised draft decision, the Board shall decide whether such statement of reasons should be accompanied by the retained relevant and reasoned objections on the basis of which the Board intends to adopt its decision.</p>	<p>All parties should have access.</p>
	<p><b>Article 24(3)</b></p> <p>The parties <del>under investigation and/or, in the case of full or partial rejection of a complaint, the complainant,</del> shall have one week from receipt of the statement of reasons referred to in paragraph 1 to make their views known.</p>	<p><b>Article 24(3)</b></p> <p>The parties shall have one week from receipt of the statement of reasons referred to in paragraph 1 to make their views known.</p>	<p>All parties should have the right to be heard.</p>
	<p><b>Article 25(1)</b></p> <p>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:</p> <p>(a) a summary of the relevant facts;</p> <p>(b) the assessment of these facts as far as the conditions of Article 56(1) of Regulation (EU) 2016/679 are concerned;</p>	<p><b>Article 25(1)</b></p> <p>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:</p> <p>(a) a summary of the relevant facts;</p> <p>(b) the assessment of these facts as far as the conditions of Article 56(1) of Regulation (EU) 2016/679 are concerned;</p>	<p>To guarantee that the highest quality of information is available to the EDPB, it should have full access to the full administrative file.</p>

	<ul style="list-style-type: none"> <li>(c) views made by the controller or processor whose main establishment is the subject of the referral;</li> <li>(d) the views of other supervisory authorities concerned by the referral;</li> <li>(e) any other document or information the referring supervisory authority considers relevant and necessary in order to find a resolution on the subject-matter.</li> </ul>	<ul style="list-style-type: none"> <li>(c) views made by the controller or processor whose main establishment is the subject of the referral;</li> <li>(d) the views of other supervisory authorities concerned by the referral;</li> <li>(e) any other document or information the referring supervisory authority considers relevant and necessary in order to find a resolution on the subject-matter;</li> <li><b>(f) access to the administrative file.</b></li> </ul>	
	<p><b>Article 26 (1)</b> 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:</p> <ul style="list-style-type: none"> <li>(a) a summary of the relevant facts;</li> <li>(b) the opinion, as the case may be, issued by the Board pursuant to Article 64 of Regulation (EU) 2016/679;</li> <li>(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.</li> </ul>	<p><b>Article 26 (1)</b> 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:</p> <ul style="list-style-type: none"> <li>(a) a summary of the relevant facts;</li> <li>(b) the opinion, as the case may be, issued by the Board pursuant to Article 64 of Regulation (EU) 2016/679;</li> <li>(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;</li> <li><b>(d) access to the administrative file.</b></li> </ul>	To guarantee that the highest quality of information is available to the EDPB, it should have full access to the full administrative file.
	<p><b>Article 27 (1)</b> A request for an urgent opinion of the Board pursuant to Article 66(2) of Regulation (EU) 2016/679 shall be made no later than three weeks prior to the expiry of provisional measures adopted under Article 66(1) of Regulation (EU) 2016/679 and shall contain all of the following items:</p> <ul style="list-style-type: none"> <li>(a) a summary of the relevant facts;</li> <li>(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;</li> <li>(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.</li> </ul>	<p><b>Article 27 (1)</b> A request for an urgent opinion of the Board pursuant to Article 66(2) of Regulation (EU) 2016/679 shall be made no later than three weeks prior to the expiry of provisional measures adopted under Article 66(1) of Regulation (EU) 2016/679 and shall contain all of the following items:</p> <ul style="list-style-type: none"> <li>(a) a summary of the relevant facts;</li> <li>(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;</li> <li>(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;</li> <li><b>(d) access to the administrative file.</b></li> </ul>	To guarantee that the highest quality of information is available to the EDPB, it should have full access to the full administrative file.
	<b>Article 28 (1)</b>	<b>Article 28 (1)</b>	To guarantee that the highest quality of information is

	<p>A request for an urgent decision of the Board pursuant to Article 66(2) of Regulation (EU) 2016/679 shall be made no later than three weeks prior to the expiry of provisional measures adopted under Articles 61(8), 62(7) or 66(1) of Regulation (EU) 2016/679. That request shall contain all of the following items:</p> <ul style="list-style-type: none"> <li>(a) a summary of the relevant facts;</li> <li>(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;</li> <li>(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;</li> <li>(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) or 62(2) of Regulation (EU) 2016/679;</li> <li>(e) where the requesting authority is not the lead supervisory authority, the views of the lead supervisory authority;</li> <li>(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.</li> </ul>	<p>A request for an urgent decision of the Board pursuant to Article 66(2) of Regulation (EU) 2016/679 shall be made no later than three weeks prior to the expiry of provisional measures adopted under Articles 61(8), 62(7) or 66(1) of Regulation (EU) 2016/679. That request shall contain all of the following items:</p> <ul style="list-style-type: none"> <li>(a) a summary of the relevant facts;</li> <li>(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;</li> <li>(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;</li> <li>(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) or 62(2) of Regulation (EU) 2016/679;</li> <li>(e) where the requesting authority is not the lead supervisory authority, the views of the lead supervisory authority;</li> <li>(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;</li> <li>(g) <b>access to the administrative file.</b></li> </ul>	<p>available to the EDPB, it should have full access to the full administrative file.</p>
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<sup>i</sup> This is the position of the EDPB, in paragraph 14 and 64 of “Guidelines 06/2022 on the practical implementation of amicable settlements”, EDPB, 12 May 2022 (URL: [https://edpb.europa.eu/system/files/2022-06/edpb\\_guidelines\\_202206\\_on\\_the\\_practical\\_implementation\\_of\\_amicable\\_settlements\\_en.pdf](https://edpb.europa.eu/system/files/2022-06/edpb_guidelines_202206_on_the_practical_implementation_of_amicable_settlements_en.pdf)).