



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 13 February 2014

**5882/1/14
REV 1**

**Interinstitutional File:
2012/0011 (COD)**

LIMITE

**DATAPROTECT 16
JAI 49
MI 94
DRS 17
DAPIX 10
FREMP 15
COMIX 71
CODEC 233**

NOTE

from: Presidency
to: Working Group on Information Exchange and Data Protection (DAPIX)
Subject: Proposal for a regulation of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation)
- One-stop-shop mechanism

Delegations find attached a new text proposal regarding the one-stop-shop mechanism.

Obviously all reservations entered and comments made on previous texts remain valid.

- 27) The main establishment of a controller in the Union should be the **place of its central administration in the Union, unless the decisions on the** purposes and means of the processing of personal data are taken **in another establishment of the controller in the Union. In this case the latter should be considered as the main establishment.** The main establishment of a controller in the Union should be determined according to objective criteria and should imply the effective and real exercise of management activities determining the main decisions as to the purposes (...) and means of processing through stable arrangements. This criterion should not depend on whether the processing of personal data is actually carried out at that location; the presence and use of technical means and technologies for processing personal data or processing activities do not, in themselves, constitute such main establishment and are therefore not determining criteria for a main establishment. The main establishment of the processor should be the place of its central administration in the Union and, if it has no central administration in the Union, the place where the main processing activities take place in the Union.

Where the processing is carried out by a group of undertakings, the main establishment of the controlling undertaking should be considered as the main establishment of the group of undertakings, except where the purposes and means of processing are determined by another undertaking.

- 97) In order to ensure consistent monitoring and enforcement of this Regulation throughout the Union, the supervisory authorities should have in each Member State the same duties and effective powers, including powers of investigation, legally binding intervention, decisions and sanctions, particularly in cases of complaints from individuals, and to engage in legal proceedings. Member States may **specify** other duties related to the protection of personal data under this Regulation. The powers of supervisory authorities (...) should be exercised in conformity with **appropriate procedural safeguards set out in** Union law and national law.

98) Each supervisory authority should deal with complaints lodged by any data subject and should investigate the matter. The investigation following a complaint should be carried out, subject to judicial review, to the extent that is appropriate in the specific case. The supervisory authority should inform the data subject of the progress and the outcome of the complaint within a reasonable period. If the case requires further investigation or coordination with another supervisory authority, intermediate information should be given to the data subject.

Where the supervisory authority to which the complaint has been lodged is not the competent supervisory authority, the competent supervisory authority should closely co-operate with the supervisory authority to which the complaint has been lodged according to the provisions on co-operation and consistency laid down in this Regulation. In such cases, the competent supervisory authority should, when taking measures intended to produce legal effects, including the imposition of administrative fines, take utmost account of the view of the supervisory authority to which the complaint has been lodged and which should remain competent to carry out any investigation on the territory of its own Member State in liaison with the competent supervisory authority.

102) In order to ensure the consistent application of this Regulation throughout the Union, a consistency mechanism for co-operation between the supervisory authorities themselves and the Commission should be established. This mechanism should in particular apply where a supervisory authority intends to **adopt measure intended to produce legal effects** as regards processing operations which substantially affect a significant number of data subjects in several Member States (...). It should also apply where any supervisory authority concerned or the Commission requests that such matter should be dealt with in the consistency mechanism. This mechanism should be without prejudice to any measures that the Commission may take in the exercise of its powers under the Treaties.

- 106) The application of this mechanism should be a condition for the (...) **lawfulness** of a (...) **measure intended to produce legal effects** by a supervisory authority in those cases where its application is mandatory. In other cases of cross-border relevance, **the consultation mechanism between the lead supervisory authority and supervisory authorities concerned should be applied and** mutual assistance and joint operations might be carried out between the supervisory authorities concerned on a bilateral or multilateral basis without triggering the consistency mechanism.
- 113) Each natural or legal person should have the right to an effective judicial remedy against decisions of a supervisory authority concerning them. Proceedings against a supervisory authority should be brought before the courts of the Member State where the supervisory authority is established and shall be conducted in accordance with the national procedural law of that Member State. Those courts should exercise full jurisdiction which should include jurisdiction to examine all questions of fact and law relevant to the dispute before it. **Where a complaint has been rejected by a supervisory authority, the complainant may bring proceedings to the courts in the same Member State**
- 114) (...).
- 115) (...).
- 116) For proceedings against a controller or processor, the plaintiff should have the choice to bring the action before the courts of the Member States where the controller or processor has an establishment or where the data subject resides, unless the controller is a public authority acting in the exercise of its public powers.
- 117) (...).

Article 4

Definitions

For the purposes of this Regulation:

(13) ‘main establishment’ means

- as regards **a** controller **with establishments in more than one Member State**, the place of its central administration in the Union, unless the decisions on the purposes (...) and means of the processing of personal data are taken in an establishment of the controller in **another Member State**. In this case the latter shall be considered as the main establishment. If no decisions as to the purposes (...) and means of the processing of personal data are taken in the Union, (...) the **establishment of the controller in the Union** where the main processing activities (...)take place ;
- as regards **a** processor **with establishments in more than one Member State**, the place of its central administration in the Union and, if the processor has no central administration in the Union, the **establishment of the controller in the Union** where the main processing activities in the context of the activities of an establishment of the processor take place;
- Where the controller exercises also activities as a processor, (...)the main establishment of the controller shall be considered as the main establishment for the supervision of processing activities;
- Where the processing is carried out by a group of undertakings, the main establishment of the controlling undertaking shall be considered as the main establishment of the group of undertakings, except where the purposes and means of processing are determined by another undertaking;

Article 51
Competence

1. Each supervisory authority shall(...) be competent **on the territory of its own Member State** to (...) **perform the duties and** to exercise the powers conferred on it in accordance with this Regulation, **without prejudice to Article 51a.**
 - a) (...)
 - b) (.....)
 - c) (...)
- 1a. (...)
- 1b. (...)
- 1c. (...)
2. (...)
- 2a. (...)
- 2b. (...)
3. Supervisory authorities shall not be competent to supervise processing operations of courts acting in their judicial capacity.

Article 51a

Competence for acting as lead supervisory authority

1. **Where the processing of personal data takes place in the context of the activities of an establishment of a controller or processor in the Union and the controller or processor is established in more than one Member State, the supervisory authority for the main establishment shall act as lead supervisory authority and shall be competent to decide on measures applying the powers conferred on it in accordance with the cooperation procedure foreseen in Articles 54a and 54b.**
2. Where the processing of personal data takes place in the context of the activities of one establishment of a controller or processor in the Union and the processing substantially affects or is likely to affect substantially data subjects in more than one Member State, the supervisory authority of that establishment shall act as lead authority and shall be competent to decide on measures applying the powers conferred on it in accordance with Articles 54a and 54b.
3. **Paragraph 1 shall not apply where the subject matter concerns only processing carried out in a single Member State and involving only data subjects in that Member State.**
4. **This article shall not apply where the processing is carried out by public authorities and bodies of a Member State.** The only supervisory authority competent to exercise the powers conferred on it in accordance with this Regulation regarding a Member State's public authorities and bodies shall be the supervisory authority of that Member State.

Article 51b¹

Identification of the supervisory authority competent for the main establishment

1. Any controller or processor may indicate to the supervisory authority of the Member State in which it considers that its main establishment is located the scope of its processing activities and ask it for confirmation that it is the **lead supervisory** authority referred to in paragraphs **1 and 2** of Article 51a. The authority shall communicate its reply to the other supervisory authorities concerned. **These replies may be made public by means of a public register maintained by the secretariat of the European Data Protection Board.**
2. Where there are conflicting views between the supervisory authorities concerned on which supervisory authority is(...) **that for the main establishment**, any of the supervisory authorities concerned may **refer** the matter to the European Data Protection Board. The European Data Protection Board shall issue an opinion on the identification of the supervisory authority **for** the main establishment in accordance with Article 58.

¹ Moved from Article 57a.

Article 52

Duties

1. Without prejudice to other duties set out under this Regulation, each supervisory authority shall on its territory:
 - (a) monitor and enforce the application of this Regulation;
 - (aa) promote public awareness of the risks, rules, safeguards and rights in relation to the processing of personal data. Activities addressed specifically to children shall receive specific attention;
 - (ab) **provide information to** the national parliament, the government or other political institution as well as the public on any issue related to the protection of personal data
 - (ac) promote the awareness of controllers and processors of their obligations under this Regulation;
 - (ad) upon request, provide information to any data subject concerning the exercise of their rights under this Regulation and, if appropriate, co-operate with the supervisory authorities in other Member States to this end;.

- (b) deal with complaints lodged by a data subject, or body, organisation or association representing a data subject in accordance with Article 73 , and investigate, to the extent appropriate, the subject matter of the complaint and inform the data subject or the body, organisation or association of the progress and the outcome of the investigation within a reasonable period , in particular if further investigation or coordination with another supervisory authority is necessary;
- (c) share information with and provide mutual assistance to other supervisory authorities with a view to ensuring the consistency of application and enforcement of this Regulation;
- (d) conduct investigations on the application of this Regulation either on its own initiative or on the basis of a information received from another supervisory **authority** or other public authority;
- (e) monitor relevant developments, insofar as they have an impact on the protection of personal data, in particular the development of information and communication technologies and commercial practices;
- (f) (...);
- (fa) (...);
- (g) (...);
- (ga) (...);
- (gb) (...);

- (gc) (...);
- (gd) (...);
- (h) (...);
- (ha) (...);
- (hb) (...);
- (i) (...);
- (j) contribute to the activities of the European Data Protection Board;
- (k) issue opinions as well as fulfil any other duties related to the protection of personal data.

2. (...).

3. (...).

4. Each supervisory authority shall enable the submission of complaints referred to in point (b) of paragraph 1, by measures which can be completed electronically, such as providing a complaint submission form, without excluding other means of communication.

5. The performance of the duties of each supervisory authority shall be free of charge for the data subject and for the data protection officer.

6. Where requests are manifestly unfounded or excessive, in particular because of their repetitive character, the supervisory authority may refuse to act on the request . The supervisory authority shall bear the burden of demonstrating the manifestly unfounded or excessive character of the request.

Article 53

Powers

1. Each Member State shall provide by law that its supervisory authority shall have at least the following **investigative** powers:
 - (a) to order the controller and the processor , and, where applicable, the representative to provide any information it requires for the performance of its duties;
 - (aa) to carry out data protection audits ;
 - (b) (...)
 - (c) (...)
 - (d) to notify the controller or the processor of an alleged infringement of this Regulation (...);
 - (da)** to obtain, from the controller and the processor, access to all personal data and to all information necessary for the performance of its duties;
 - (db)** to obtain access to any premises of the controller and the processor , including to any data processing equipment and means.
- 1a. (...).

- 1b. Each Member State shall provide by law that its supervisory authority shall have the following corrective powers:
- (a) to issue warnings to a controller or processor that intended processing operations are likely to infringe provisions of this Regulation;
 - (b) to issue reprimands to a controller or processor where processing operations have infringed provisions of this Regulation;
 - (c) (...);
 - (ca) to order the controller or the processor to comply with the data subject's requests to exercise his or her rights pursuant to this Regulation;**
 - (d) to order the controller or processor to bring processing operations into compliance with the provisions of this Regulation, where appropriate, in a specified manner and within a specified period; inter alia by carrying out a data protection audit or by ordering the rectification, restriction or erasure of data pursuant to Articles 16, 17a and 17 and the notification of such actions to recipients to whom the data have been disclosed pursuant to Articles 17(2a) and 17b;
 - (e) to impose a temporary or definitive limitation on processing ;
 - (f) to order the suspension of data flows to a recipient in a third country or to an international organisation ;
 - (g) to impose an administrative fine pursuant to Articles 79 and 79a, in addition to, or instead of measures referred to in this paragraph, depending on the circumstances of each individual case.

- 1c. Each Member State shall provide by law that its supervisory authority shall have the following authorisation powers:
 - (a) **advise the controller** in accordance with the prior consultation procedure referred to in Article 34,
 - (b) authorise standard data protection clauses referred to in point (c) of Article 42(2);
 - (c) authorise contractual clauses referred to in point (d) of Article 42(2);
 - (d) approve binding corporate rules pursuant to Article 43.
2. The procedure for exercising the powers referred to in paragraphs 1, 1a, 1b and 1c shall be laid down in Member State law. (...) ¹
3. Each Member State shall provide by law that its supervisory authority shall have the power to bring infringements of this Regulation to the attention of the judicial authorities or to commence or engage otherwise in legal proceedings , in order to enforce the provisions of this Regulation.
4. (...)
5. (...)

¹ Moved to new Article 53a.

Article 53a

Exercise of powers by the supervisory authority

1. **The exercise of the powers conferred on the supervisory authority pursuant to Article 53 shall be subject to appropriate safeguards, including effective judicial remedy and due process, set out in Union and Member State law.**

2. **When exercising the powers referred to in Article 53, each supervisory authority shall act impartially, fairly and within a reasonable time. In particular each measure shall:**
 - (a) **be appropriate, necessary and proportionate in view of ensuring compliance with this Regulation, taking into account the circumstances of each individual case and legitimate interests of the persons concerned;**
 - (b) **respect the right of every person to be heard, before any individual measure which would affect him or her adversely is taken;**
 - (c) **avoid superfluous costs and excessive inconveniences for the persons concerned;**
 - (d) **be taken without undue delay.**

3. **Each legally binding measure of the supervisory authority exercising the powers referred to in Article 53 shall be in writing and:**
 - (a) **be clear and unambiguous;**
 - (b) **indicate the supervisory authority;**
 - (c) **indicate the time of issuance of the measure;**
 - (d) **bear the signature of the head or a member of the supervisory authority of a person authorised by him or her;**
 - (e) **give the reasons for the measure;**
 - (f) **refer to the right of an effective remedy and give contact details of the competent court, indicating the form and time limits for such remedy.**

Article 54b

Cooperation on complaints lodged to a supervisory authority

- 1. Where a complaint has been lodged to a supervisory authority other than the one which is competent for the matter in accordance with Article 51(1) or acts as a lead supervisory authority pursuant to paragraph 1 or 2 of Article 51a, that supervisory authority shall, without prejudice to point (b) of Article 52(1), refer the matter to the lead supervisory authority.**
- 2. In a case referred to in paragraph 1 or 2 of Article 51a the supervisory authority to which the complaint has been lodged, where the subject matter of the complaint concerns only processing activities of an establishment of the controller or processor in one single Member State and the matter does not affect data subjects in another Member State, the supervisory authority to which the complaint has been lodged may, where appropriate, seek an amicable settlement of the complaint. Where such amicable settlement cannot be reached or where such an amicable settlement would not be appropriate, the supervisory authority to which the complaint has been lodged shall refer the matter and the result of its related investigations to the lead supervisory authority, which shall act pursuant to points (b) and (c) of Article 54a(2).**
- 3. When referring the matter pursuant to paragraph 2, the supervisory authority may submit a draft measure to the lead authority. Where the lead supervisory authority does not act on a draft measure referred to it pursuant to paragraph 1a, within a period of four weeks after having received the draft measure, the supervisory authority which has referred the matter, may submit the matter to European Data Protection Board under the consistency mechanism referred to in Article 57.**

- 4. Where, in the case referred to in paragraph 2, the concerned supervisory authority to which the complaint has been lodged considers the complaint as unfounded, it shall notify this to the lead supervisory authority. Where the lead supervisory authority objects to such finding, it may refer the case to the consistency mechanism within two weeks after having received the notification. Where a supervisory authority concerned has not objected within this period, it is deemed to be in agreement with the draft measure.**
- 5. Where, in the case referred to in paragraph 2, the lead supervisory authority and the supervisory to which the complaint has been lodged, have reached agreement that the complaint is unfounded, the supervisory authority to which the complaint has been lodged, shall reject the complaint and notify the rejection to the complainant.**
- 6. In other cases, the supervisory authority to which a complaint has been lodged shall inform the data subject of the measure which the supervisory authority which is competent in accordance with Article 51(1) or acts as lead authority pursuant to paragraph 1 or 2 of Article 51a has adopted.**

Article 55

Mutual assistance

1. Supervisory authorities shall provide each other with relevant information and mutual assistance in order to implement and apply this Regulation in a consistent manner, and shall put in place measures for effective co-operation with one another. Mutual assistance shall cover, in particular, information requests and supervisory measures, such as requests to carry out prior authorisations and consultations, inspections and investigations. (...)

2. Each supervisory authority shall take all appropriate measures required to reply to the request of another supervisory authority without undue delay and no later than one month after having received the request. Such measures may include, in particular, the transmission of relevant information on the conduct of an investigation (...).
3. The request for assistance shall contain all the necessary information , including the purpose of the request and reasons for the request. Information exchanged shall be used only for the purpose for which it was requested.
4. A supervisory authority to which a request for assistance is addressed may not refuse to comply with it unless:
 - (a) it is not competent for the subject-matter of the request or for the measures it is requested to execute ; or
 - (b) compliance with the request would be incompatible with the provisions of this Regulation or with Union or Member State law to which the supervisory authority receiving the request is subject.
5. The requested supervisory authority shall inform the requesting supervisory authority of the results or, as the case may be, of the progress or the measures taken in order to respond to the request. In cases of a refusal under paragraph 4, it shall explain its reasons for refusing the request .
6. Supervisory authorities shall, as a rule, supply the information requested by other supervisory authorities by electronic means , using a standardised format.
7. No fee shall be charged for any action taken following a request for mutual assistance. Supervisory authorities may agree with other supervisory authorities rules for indemnification by other supervisory authorities for specific expenditure arising from the provision of mutual assistance in exceptional circumstances.

8. Where a supervisory authority does not provide the information referred to in paragraph 5 within one month of receiving the request of another supervisory authority, the requesting supervisory authority may adopt a provisional measure on the territory of its Member State in accordance with Article 51(1) and shall submit the matter to the European Data Protection Board and the Commission in accordance with the consistency mechanism referred to in Article 57 .
9. The supervisory authority shall specify the period of validity of such a provisional measure which shall not exceed three months. The supervisory authority shall, without delay, communicate such a measure, together with its reasons for adopting it, to the European Data Protection Board and to the Commission in accordance with the consistency mechanism referred to in Article 57.
10. The Commission may specify the format and procedures for mutual assistance referred to in this article and the arrangements for the exchange of information by electronic means between supervisory authorities, and between supervisory authorities and the European Data Protection Board, in particular the standardised format referred to in paragraph 6. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 87(2).

Article 56

Joint operations of supervisory authorities

1. The supervisory authorities may, where appropriate, conduct joint operations, including joint investigations and joint enforcement measures in which members or staff from other Member States' supervisory authorities are involved.
2. In cases where the controller or processor has establishments in several Member States or where [a significant number of] data subjects in more than one Member State are likely to be substantially affected by processing operations, a supervisory authority of each of those Member States shall have the right to participate in the joint operations, as appropriate. The competent supervisory authority shall invite the supervisory authority of each of those Member States to take part in the joint operations concerned and respond to the request of a supervisory authority to participate without delay.
3. A supervisory authority may, in compliance with its own Member State law, and with the seconding supervisory authority's authorisation, confer powers, including investigative powers on the seconding supervisory authority's members or staff involved in joint operations or, in so far as the host supervisory authority's law permits, allow the seconding supervisory authority's members or staff to exercise their investigative powers in accordance with the seconding supervisory authority's law. Such investigative powers may be exercised only under the guidance and in the presence of members or staff **of** the host supervisory authority. The seconding supervisory authority's members or staff shall be subject to the host supervisory authority's national law. (...).

- 3a. Where, in accordance with paragraph 1, staff of a **seconding** supervisory authority are operating in another Member State, the Member State of the **host** supervisory authority shall be liable for any damage caused by them during their operations, in accordance with the law of the Member State in whose territory they are operating.
- 3b. The Member State in whose territory the damage was caused shall make good such damage under the conditions applicable to damage caused by its own staff. The Member State of the **seconding** supervisory authority whose staff have caused damage to any person in the territory of another Member State shall reimburse the latter in full any sums it has paid to the victims or persons entitled on their behalf.
- 3c. Without prejudice to the exercise of its rights vis-à-vis third parties and with the exception of paragraph 3b, each Member State shall refrain, in the case provided for in paragraph 1, from requesting reimbursement of damages it has sustained from another Member State .
4. (...)
5. Where a joint operation is intended and a supervisory authority does not comply within one month with the obligation laid down in the second sentence of paragraph 2, the other supervisory authorities may adopt a provisional measure on the territory of its Member State in accordance with Article 51(1).
6. The supervisory authority shall specify the period of validity of a provisional measure referred to in paragraph 5, which shall not exceed three months. The supervisory authority shall, without delay, communicate such a measure, together with its reasons for adopting it, to the European Data Protection Board and to the Commission in accordance with the consistency mechanism referred to in Article 57.

SECTION 2

CONSISTENCY

Article 57

Consistency mechanism

1. For the purpose set out in Article 46(1a), the supervisory authorities shall co-operate with each other through the consistency mechanism as set out in this section .
 - 1a. (...) **In a case referred to in paragraph 1 or 2 of Article 51a**, the **lead** supervisory authority (...) shall communicate a draft measure referred to in paragraph 1a of Article **54a** to the European Data Protection Board and the Commission when **a supervisory authority concerned objects to a draft measure of the lead supervisory authority pursuant to paragraph 3 of Article 54a or paragraph 4 of Article 54b**
 - 1b. (...).
2. The supervisory authority competent for the supervision of the main establishment of the controller or processor which intends to adopt a measure aimed at producing effects in more than one Member State, shall communicate the draft measure to the European Data Protection Board and the Commission, when the measure:
 - (a) (...);
 - (b) (...);
 - (c) aims at adopting a list of the processing operations subject to the requirement for a data protection impact assessment pursuant to Article 33(2b); or

- (ca) concerns a matter pursuant to Article 38(2b) whether a draft code of conduct or an amendment or extension to a code of conduct is in compliance with this Regulation;
or
 - (cb) aims to approve the criteria for accreditation of a body pursuant to paragraph 3 of Article 38a or a certification body pursuant to paragraph 3 of Article 39a;
 - (d) aims to determine standard data protection clauses referred to in point (c) of Article 42(2); or
 - (e) aims to authorise contractual clauses referred to in point (d) of Article 42(2); or
 - (f) aims to approve binding corporate rules within the meaning of Article 43.
3. Where the competent supervisory authority does not submit a draft measure referred to in paragraphs 1a and 2 to the Board or does not comply with the obligations for mutual assistance in accordance with Article 55 or for joint operations in accordance with Article 56, any supervisory authority concerned, the European Data Protection Board or the Commission may request that such matter shall be communicated to the European Data Protection Board .
4. (...)
5. Supervisory authorities and the Commission shall electronically communicate to the European Data Protection Board, using a standardised format any relevant information, including as the case may be a summary of the facts, the draft measure, the grounds which make the enactment of such measure necessary, and the views of other supervisory authorities concerned.
6. The chair of the European Data Protection Board shall without undue delay electronically inform the members of the European Data Protection Board and the Commission of any relevant information which has been communicated to it using a standardised format. The secretariat of the European Data Protection Board shall, where necessary, provide translations of relevant information.

Article 58

Opinion by the European Data Protection Board

1. (...)

2. (...)

3. (...)

4. (...)

5. (...)

6. (...)

6a. (...)

7. In the cases referred to in paragraphs 1a and 2 of Article 57, the European Data Protection Board shall issue an opinion on the subject- matter submitted to it in provided it has not already issued an opinion on the same matter. This opinion shall be adopted within one month by simple majority of the members of the European Data Protection Board.

Regarding the draft measure circulated to the members of the Board in accordance with paragraph 6 of Article 57, a member which has not objected within the period indicated by the Chair, shall be deemed to be in agreement with the draft measure.

7a. Within the period referred to in paragraph 7 the supervisory authority competent for the supervision of the main establishment shall not adopt its draft measure.

- 7b. The chair of the European Data Protection Board shall inform, without undue delay, the supervisory authority referred to, as the case may be, in paragraphs 1a and 2 of Article 57 and the Commission of the opinion and make it public.
8. The supervisory authority referred to in paragraphs 1a and 2 of Article 57 shall take utmost account of the opinion of the European Data Protection Board and shall within two weeks after receiving the opinion, electronically communicate to the chair of the European Data Protection Board whether it maintains **or will** amend its draft measure and, if any, the amended draft measure, using a standardised format.
9. Where the supervisory authority concerned does not intend to follow the opinion, it shall inform the chair of the European Data Protection Board and the Commission within the period referred to in paragraph 8 and shall explain its refusal to follow the opinion.
10. (...)
11. (...).

Article 59

Opinion by the Commission

(...)

Article 60

Suspension of a draft measure

(...)

Article 61

Urgency procedure

1. In exceptional circumstances, where the competent supervisory authority considers that there is an urgent need to act in order to protect rights and freedoms of data subjects, it may, by way of derogation from the consistency mechanism referred to in Article 57 or the procedure referred to in Article 54a, immediately adopt provisional measures **intended to produce legal effects** (...) for the territory of its own Member State, with a specified period of validity. The supervisory authority shall, without delay, communicate those measures and the reasons for adopting them, to the European Data Protection Board and to the Commission.
2. Where a supervisory authority has taken a measure pursuant to paragraph 1 and considers that final measures need urgently be adopted, it may request an urgent opinion of the European Data Protection Board, giving reasons for requesting such opinion.
3. Any supervisory authority may request an urgent opinion where the competent supervisory authority has not taken an appropriate measure in a situation where there is an urgent need to act, in order to protect the rights and freedoms of data subjects, giving reasons for requesting such opinion, including for the urgent need to act.
4. By derogation from paragraph 7a of Article 58, an urgent opinion referred to in paragraphs 2 and 3 of this Article shall be adopted within two weeks by simple majority of the members of the European Data Protection Board.

Article 62

Implementing acts

1. The Commission may adopt implementing acts of general scope for:
 - (a) (...) **the correct application of the Regulation concerning a matter referred to in point (a) of Article 57(1a), in relation to which the lead supervisory authority did not follow an opinion of the European Data Protection Board;**
 - (b) (...);
 - (c) (...);
 - (d) specifying the arrangements for the exchange of information by electronic means between supervisory authorities, and between supervisory authorities and the European Data Protection Board, in particular the standardised format referred to in Article 57(5) and (6) and in Article 58(8).

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 87(2).
2. (...).
3. (...).

Article 63

Notification of measures adopted by the competent supervisory authority

1. **Without prejudice to paragraph 5 of Article 54b, the** supervisory authority competent(...) **or acting as lead supervisory authority for deciding on measures intended to produce legally binding effects** shall notify **such** measure (...) that were adopted under the cooperation or consistency mechanism **or the consultation mechanism referred to in Article 54a** to the controller or processor concerned.
 - 1b. (...)
 1. (...).
 2. (...).

CHAPTER VIII
REMEDIES, LIABILITY AND SANCTIONS

Article 73

Right to lodge a complaint with a supervisory authority

1. Without prejudice to any other administrative or judicial remedy, every data subject shall have the right to lodge a complaint with a supervisory **authority if the data subject considers that the processing** of personal data relating to him or her does not comply with this Regulation.
 - 1a. (...)
 2. (...)
 3. (...)
4. Without prejudice to its duties under paragraph (b) of Article 52**(1) and to Article 54b**, when the supervisory authority to which a complaint has been lodged is not competent for a **measure intended to produce legal effects as referred to in paragraph 1a of Article 54a**, it shall refer the complaint to the supervisory authority which is competent under Article **51 or acts as lead supervisory authority pursuant to paragraph 1 or 2 of Article 51a**.
5. The supervisory authority to which the complaint has been lodged shall inform the complainant on the progress and the outcome of the complaint. Where the supervisory authority competent in accordance with Article 51 **or paragraph 5 of Article 54b** finds the complaint unfounded, the supervisory authority to which the complaint has been lodged shall notify the complainant thereof and inform him of the reasons for the rejection and of the possibility of an judicial remedy pursuant Article 74.

Article 74

Right to a judicial remedy against a supervisory authority

1. Without prejudice to any other administrative or non-judicial remedy, each natural or legal person shall have the right to an effective judicial remedy against a decision of a supervisory authority concerning them, including when the complaint has been rejected, in part or wholly .
2. Without prejudice to any other administrative or non-judicial remedy, each data subject shall have the right to a judicial remedy where the supervisory authority competent in accordance with Article 51 does not deal with a complaint or does not inform the data subject within three months or any shorter period provided under Union or Member State law on the progress or outcome of the complaint lodged under Article 73.
3. Proceedings against a decision of a supervisory authority shall be brought before the courts of the Member State where the supervisory authority is established.
4. (...)
5. (...)

Article 75

Right to a judicial remedy against a controller or processor

1. Without prejudice to any available administrative or non-judicial remedy, including the right to lodge a complaint with a supervisory authority under Article 73, a data subject shall have the right to an effective judicial remedy if they consider that their rights under this Regulation have been infringed as a result of the processing of their personal data in non-compliance with this Regulation.

2. Proceedings against a controller or a processor shall be brought before the courts of the Member State where the controller or processor has an establishment (...). Alternatively, such proceedings may be brought before the courts of the Member State where the data subject has his or her habitual residence, unless the controller is a public authority acting in the exercise of its public powers.
3. (...)
4. (...)

Article 76

Representation of data subjects

1. The data subject shall have the right to mandate a body, organisation or association, which has been properly constituted according to the law of a Member State and whose statutory objectives include the protection of data subjects' rights and freedoms with regard to the protection of their personal data, to lodge the complaint on his or her behalf and to exercise the rights referred to in Articles 73, 74 and 75 on his or her behalf.
 - 1a. [Independently of a data subject's mandate or complaint, any body, organisation or association referred to in paragraph 1 shall have the right to lodge a complaint with the supervisory authority competent in accordance with Article 51 if it has reasons to consider that a personal data breach referred to in Article 32(1) has occurred and Article 32(3) does not apply.]
 2. (...)
 3. (...)
 4. (...)
 5. (...)