

GDPR procedural rules proposal

Overview



Scope of the proposal

- To clarify and harmonize the procedural rules applying when national Data Protection Authorities (DPAs) investigate cross-border cases.



Rights of complainants

- Introduction of a standardized complaint form
- Three weeks to respond to the DPA's draft decision to reject the complaint
- Two weeks to object to an amicable solution with the defendant



Cooperation among DPAs

- Lead DPA to provide concerned DPA with a list of specific documents, including a summary of key issues
- Lead DPA to request an EDPB's binding decision \$/where there is no consensus among DPAs



Rights of parties under investigation (defendants)

- Right to review to the lead DPA preliminary findings, its draft decisions, and the EDPB's statements of reasons prior to a binding decision
- Access to all documents in the administrative file (except inter-DPAs' correspondence)
- Guarantees over the treatment of confidential information



Dispute resolution mechanism

- Lead DPA to provide the EDPB with a list of specific documents
- Chair of the EDPB to issue a statement of reasons prior to the EDPB's binding decisions
- Defendants and complainants to give their views on the statement of reasons within max two weeks

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FEDMA's recommendations



Scope of the Regulation

Avoiding a Big Tech-only Regulation to address shortcomings of a few DPAs



Resolution via amicable settlements

Avoiding complex amicable settlement procedures



Defendants' right to be heard before the EDPB

Extending this right to all cross-border cases



Defendants' right to transparency

Informing the defendants when the Leading Supervisory Authority (LSA) that the file was transferred to other DPAs for their opinion



Confidentiality

Including sanctions where complainants breach the confidentiality agreement;
Ensuring that third parties do not have access to confidential information once a case is closed



Deadline to submit opinions

Setting a minimum deadline of one month to allow defendants to share their views to the lead DPA and the EDPB



Correspondence between DPAs

Striking a balance between ensuring confidential information exchange among DPAs and defendants' access to the DPAs' correspondence



Different procedural situation between defendants and complainants

Stressing and preserving the different procedural situations and corresponding rights.



Defendant's right to be heard in case of revised draft decision

Mandating the LSA to hear the defendants' view where new elements led to a revised draft decision.

