



## Joint Industry Letter on GDPR Enforcement Rules

Dear Member of the European Parliament,

The undersigned associations representing various sectors of industry support targeted improvements in the enforcement of cross-border data protection cases and call for a balanced and practical approach ahead of the European Parliament plenary vote on the new proposal on GDPR Procedural Rules.

In support of the goal of reaching a more widely endorsed negotiating mandate, the European Parliament's position should take into account the following recommendations, in order to guarantee harmonisation as well as legal certainty for complainants, parties under investigation and data protection authorities.

### 1. Preserving confidentiality

We welcome the European Commission proposal's recognition, harmonisation and, in some cases, strengthening of the role of complainants in cross-border investigations. This includes access to non-confidential information which is necessary for the complainant to effectively make their views known, subject to certain safeguards.

However, we are concerned that the LIBE Committee [report](#) not only significantly waters down the confidentiality protections introduced by the European Commission in its original proposal, but also increases the number of entities with access to documents during a cross-border enforcement procedure. These proposed changes throw the carefully drafted provisions of the original proposal out of balance and endanger the fundamental principles of confidentiality and protection of trade secrets.

Before sharing any relevant documents with entities involved in cross-border procedures, it is therefore essential to ensure their commitment to confidentiality, as well as to establish

appropriate and proportionate safeguards, in particular where there is a breach of such non-disclosure and confidentiality agreements. Keeping inquiry documents confidential is key to preserving the integrity of the decision-making process, and the proposal should ensure strong safeguards to this effect.

## **2. Upholding the One-Stop-Shop mechanism**

The introduction of the One-Stop-Shop was one of the main innovations of the GDPR, aimed at providing legal certainty to businesses operating in more than one Member State, as well as data subjects. This mechanism enables the lead supervisory authority to retain an appropriate level of discretion in data protection investigations, allowing consistency when addressing cross-border privacy concerns. The European Commission's original proposal enhanced this mechanism by introducing additional steps in the cooperation among supervisory authorities. However, changes proposed in the LIBE report weaken the central role of the lead supervisory authority and could lead to independent actions and a fragmented enforcement.

In this context, it is fundamental for the European Parliament's negotiating mandate to preserve the primary role of the lead supervisory authority in any cross-border proceeding. This will guarantee that controllers have a unique interlocutor for cases involving cross-border data processing and allow the streamlining of procedures.

## **3. Removing the adversarial procedure**

GDPR investigations do not constitute an adversarial process; rather, they are regulatory in nature, with supervisory authorities overseeing compliance. These authorities have considerable competences, such as imposing fines under Article 58 of the GDPR, which places a heavier burden on the parties under investigation compared to the complainants.

The European Commission's original proposal appropriately balanced the involvement of the complainant and the investigated party in data protection cases. The changes proposed by the LIBE report shift such a balanced approach and put both parties on an equal footing, without taking into account that parties under investigation face greater repercussions than complainants. Therefore, it is important for the European Parliament to avoid transforming the GDPR complaining handling process into an adversarial one, which would risk violating the fundamental rights of the parties under investigation.

We encourage the European Parliament to consider the above points in line with the Commission's primary objectives, and to support a fair and balanced compromise in the upcoming vote. This will ensure the swift resolution of cases, support efficient and consistent GDPR procedures and provide more legal certainty for all parties involved.

Respectfully,

Signatories (in alphabetical order):

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