

Position Paper

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Cross – Border GDPR Enforcement: Assessing the Trilogue Agreement

Bitkom welcomes the provisional trilogue agreement¹ between the Council and the European Parliament aimed at improving cross-border GDPR enforcement through enhanced cooperation between data protection authorities (DPAs). We view this as a significant step forward and an opportunity to foster a broader conversation on improving the harmonisation of GDPR interpretation across the EU.

The goal of the new regulation is to accelerate the handling of cross-border GDPR complaints filed by individuals or organisations. The final trilogue text retains the Council's proposal for a simplified cooperation procedure. By harmonising the requirements for the admissibility of such complaints—regardless of where in the EU they are filed—the regulation is expected to improve consistency and legal certainty throughout the Union.

The requirements and procedures for hearing the complainant in the event of a complaint rejection are also further harmonised. The regulation strengthens the right of the organisation under investigation to be heard at key stages of the procedure. Both parties are entitled to receive preliminary findings before a final decision is adopted, enabling them to express their views in a meaningful way. In this context, we welcome the improvements introduced in the dispute resolution procedure under Chapter V—particularly the inclusion of a right to be heard before the EDPB, as well as the obligation to inform the parties of new factual or legal elements the Board intends to rely on. These steps enhance transparency and reinforce procedural fairness. However, to fully safeguard the right to be heard, we consider that an explicit possibility for oral hearings

¹ Council of the EU, Press release, 16. Juni 2025, Data protection: Council and European Parliament reach deal to make cross boarder GDPR enforcement work better for citizens, abrufbar unter: https://www.consilium.europa.eu/en/press/press-releases/2025/06/16/data-protection-council-and-european-parliament-reach-deal-to-make-cross-border-gdpr-enforcement-work-better-for-citizens/?utm_source=chatgpt.com, zuletzt abgerufen am 20.06.2025.

before the EDPB — particularly in complex or high-impact cases — would provide an important additional procedural guarantee.

We welcome the revised Article 19(2), which aligns closely with comments expressed in our earlier position²—particularly regarding the need to restrict generalised access to the administrative file and to safeguard confidential information, in line with established principles from competition law.

The introduction of Article 28a on urgent decisions is a positive step. It reinforces the procedural rights of parties under investigation by ensuring an opportunity to be heard before the Board adopts urgent binding decisions. However, the final text still does not provide an explicit right to appeal EDPB decisions, which we consider essential for ensuring comprehensive procedural fairness.

The final agreement also introduces concrete deadlines for the completion of investigations. The co-legislators agreed on an overall investigation deadline of 15 months, extendable by 12 months in the most complex cases. In cases involving a simple cooperation procedure between national DPAs, the investigation must be concluded within 12 months.

A key innovation in the regulation is the introduction of an early resolution mechanism, allowing DPAs to resolve complaints before triggering the full cross-border cooperation procedure. To facilitate consensus-building and avoid protracted disputes between DPAs, the lead authority will be required to send a summary of key issues to its EU counterparts. This simplified procedure is intended to reduce unnecessary administrative burdens and enable swifter action on less contentious cases. The revised approach enhances procedural flexibility by allowing the lead authority to close cases earlier, provided there is evidence that the alleged infringement has been remedied. Importantly, the complainant's right to object to a proposed resolution is maintained. However, the previous option to request a two-week extension has been removed; the new version grants a fixed four-week window to raise an objection.

In this context, Bitkom continues to stress the importance of a harmonised interpretation of the GDPR—particularly regarding the processing of special categories of data. Divergent and overly restrictive interpretations in some Member States continue to pose obstacles to research and innovation. To support initiatives such as the Common European Data Spaces, collaboration between regulators, DPAs, and industry is essential to ensure progress while safeguarding fundamental rights.

The lack of consistent balancing of fundamental rights across Member States still hampers innovation and creates legal uncertainty. The European Data Innovation Board, established by the Data Governance Act, could play an important role in addressing this gap. By bringing together a broader range of expertise, the Board could help promote a

² Bitkom, Position Paper, Proposal for a Regulation for a better enforcement of the GDPR, abrufbar unter: https://www.consilium.europa.eu/en/press/press-releases/2025/06/16/data-protection-council-and-european-parliament-reach-deal-to-make-cross-border-gdpr-enforcement-work-better-for-citizens/?utm_source=chatgpt.com, zuletzt abgerufen am: 20.06.2025.

more coherent and innovation - friendly enforcement environment. We would therefore welcome the inclusion of references to the European Data Innovation Board in the new regulation to help align data protection with societal needs and technological progress across the Digital Single Market.

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