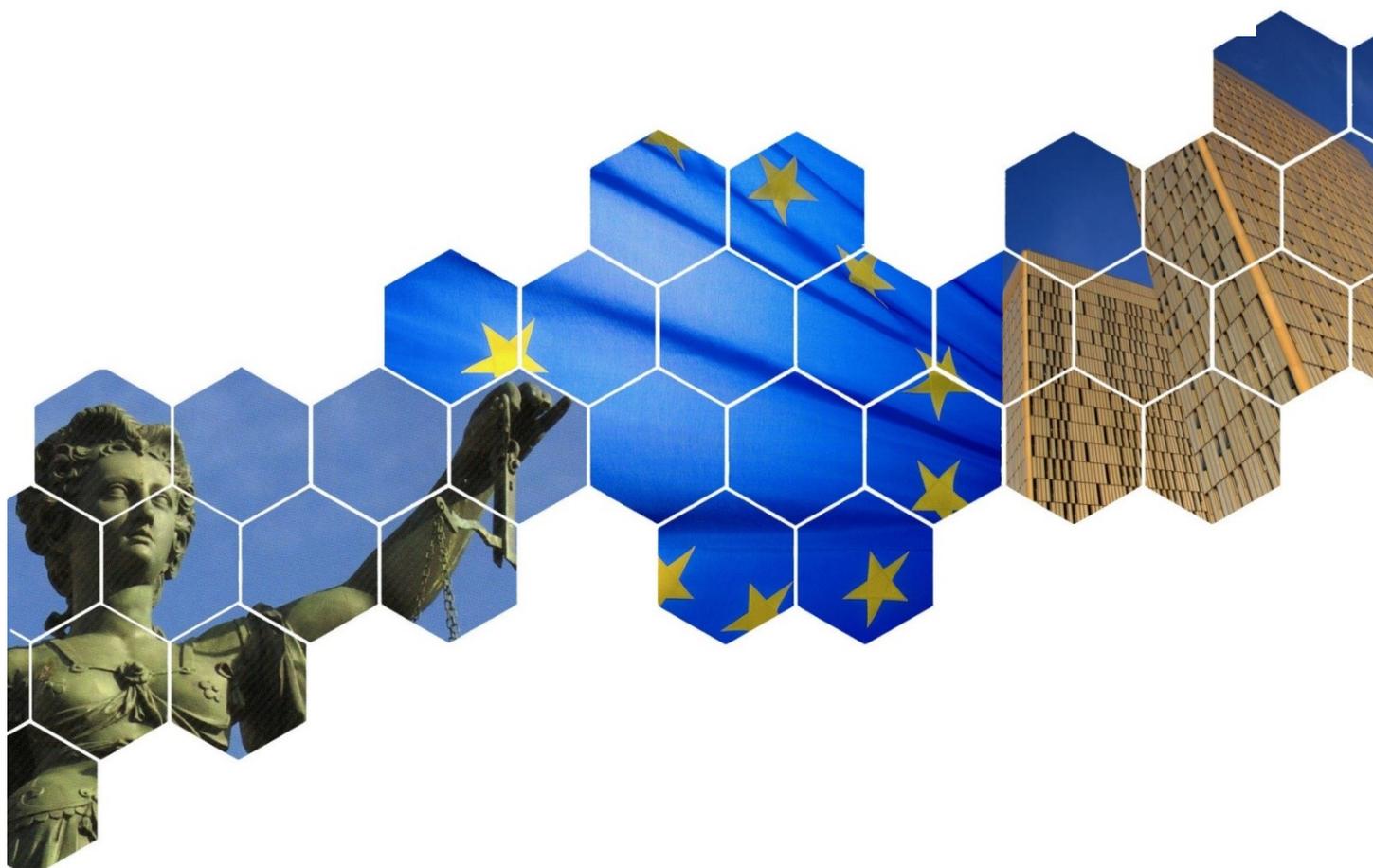


Study on the national administrative rules impacting the cooperation duties for the national supervisory authorities

Final Report

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The study has been carried out by a team of researchers from Milieu, University of Namur (CRIDS), Vrije Universiteit Amsterdam (CLI) and Leiden University (eLaw). The leading author of the study report is Jean Herveg (CRIDS).

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ABSTRACT

This study analyses the national administrative rules applicable when the national supervisory authorities (SA) carry out their cooperation duties in the context of a One-Stop-Shop (OSS) procedure.

It provides an overview of the national administrative rules applicable to SAs when they carry out their cooperation duties and to identify their specificities, which could raise questions or challenges to the completion of their GDPR cooperation duties in the context of an OSS procedure, with respect to the following six issues:

- deadlines impacting the moment on which draft decisions should be shared with SAs;
- the admissibility of complaints from individuals;
- the right to be heard;
- amicable settlements;
- the prior notification of forthcoming investigations or exercise of corrective powers;
- steps or decisions pertaining to the OSS procedure.

On this basis the study points out the main questions and challenges to cooperation duties stemming from these national administrative rules.

Based on its findings, the study offers suggestions or solutions for each of the six topics covered by the analysis, before suggesting a more global solution consisting of assessing the possibility of drafting Recommendations or Guidelines at European level (EDPB) specifying how to conduct an OSS procedure (starting with the identification of cross-border processing, then with the investigation phase, the information and consultation of the SAs, the notification and hearing of the parties, the decision-making procedure, and the legal effects of the decisions adopted during the OSS procedure).

EXECUTIVE SUMMARY

I. Overview of the national administrative rules and their specificities regarding cooperation duties

The report offers six tables providing an overview of the national administrative rules and their specificities regarding cooperation duties in the context of an OSS procedure for each of the six topics covered by the study.

II. General trends observed in relation to national administrative rules which have an impact on cooperation duties

In addition to the rules laid down in the GDPR, all SAs have to comply with national general administrative rules when carrying out their cooperation duties in an OSS procedure. In addition, a large majority of countries have passed some specific rules regarding the way their cooperation duties should be organised in OSS procedures. A minority of countries have passed more comprehensive national administrative rules regarding the OSS mechanism.

A vast majority of countries recognise the controllers' and processors' fundamental right to be heard. They also recognise, to some extent, the obligation to provide information to the complainant and/or the controller or processor.

In a large majority of countries, complaints must comply with requirements laid down by national administrative rules.

In nearly all the countries, time limits or deadlines are suspended, or may be extended, in case of an OSS procedure.

A substantial number of countries recognise the possibility of amicable settlements between the complainant and the controller or processor.

Finally, there is no harmonisation regarding the steps leading to a decision in the context of an OSS procedure.

III. Main challenges in relation to the application of the national administrative rules on cooperation duties

Deadlines are not the same in all the countries (in terms of legal nature and legal effects) and there is no coherence as to the moment when draft decisions should be shared with competent supervisory authorities (CSAs).

The requirements for the admissibility of the complaints from individuals vary considerably from one country to another, either in terms of nature or in terms of content.

The right to be heard exists, to some extent, in 25 countries. However, there is no harmonisation as to who should be heard nor as to the moment when parties should be heard.

The possibility to reach an amicable settlement between controllers or processors and complainants does not exist in all countries. There might be controversy on whether amicable settlements are possible for cross-border cases with an impact broader than just locally. Where amicable settlements are reached, there is no clear indication on their impact on the OSS procedure.

There is no convergence regarding the prior notification of forthcoming investigations or exercise of corrective powers. It is an obligation in some countries and not in others.

The procedure applied when handling an OSS case varies from country to country.

IV. Suggestions and possible solutions

The study offers suggestions or solutions for each of the six topics covered by the analysis in order to consolidate the operational framework of the OSS mechanism. It also suggests a more global solution consisting of assessing the possibility to draft Recommendations or Guidelines at European level (EDPB) specifying how to conduct an OSS procedure (starting with the identification of cross-border processing, then with the investigation phase, the information and consultation of the SAs, the

notification and hearing of the parties, the decision-making procedure, and the legal effects of the decisions adopted during the OSS procedure).

1 INTRODUCTION

From among the provisions relating to cooperation duties, the General Data Protection Regulation (GDPR¹) first regulates cooperation between the lead supervisory authority (LSA) and the competent supervisory authorities (CSAs) in the context of the one-stop-shop (OSS) mechanism (cf. Article 60 of the GDPR), as follows:

1. the LSA must cooperate with CSAs;
2. the LSA and CSAs must exchange all relevant information with each other; and
3. the LSA may request at any time other CSAs to provide mutual assistance.

The LSA must, immediately, communicate the relevant information to the other CSAs.

The LSA should also (and without any delay) submit a draft decision to the CSAs for their opinion and it should take due account of their views (cf. Article 60(3)-(7) of the GDPR).

The LSA and the CSAs will supply the information to each other by electronic means, using a standardised format (e.g. cf. Article 60(12) of the GDPR).

The GDPR also provides for rules on the mutual assistance between supervisory authorities (SAs), which covers, in particular, information requests and supervisory measures, such as requests to carry out prior authorisations and consultations, inspections and investigations (cf. Article 61(1) and (2) of the GDPR).

SAs may also conduct joint operations including joint investigations and joint enforcement measures in which members or staff of the SAs of other Member States are involved (cf. Article 62 of the GDPR).

This study focuses on the **national administrative rules** (either national data protection rules or national general administrative rules) applicable to the SAs' activities when carrying out their cooperation duties in the context of an **OSS procedure**.

1.1 OBJECTIVES OF THE STUDY

The objectives of the study are outlined in the annex to the Contract.

The first objective of the study is to provide an overview of the national administrative rules that might be applicable when SAs are carrying out their cooperation duties and to identify their specificities which could raise questions or challenges to the completion of their GDPR cooperation duties in the context of an OSS procedure, e.g. with respect to the following six issues:

- whether the national systems impose deadlines impacting the moment when the draft decision will be shared with the other SAs concerned;
- whether the national systems impose the duty of addressing all complaints from individuals or only some of them (in addition to what is provided by Article 57(4) of the GDPR);
- whether the national system provides for duties on the right to be heard for the affected parties even before the consultation of the other SAs concerned on the draft decision;
- whether some national legislative systems enable the conclusion of amicable settlements with the controller or the processor and if yes, whether the latter would take place prior to the consultation of the other supervisory authorities concerned on the draft decision;
- whether some national legislative systems impose duties of prior notification of the controller/processor of any investigation or forthcoming exercise of corrective powers and

¹ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation), OJ L 119, 4.5.2016, pp. 1–88, available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1593600370255&uri=CELEX:32016R0679>.

whether the latter should take place prior to the consultation of the other supervisory authorities concerned on the draft decision;

- whether the national systems impose different steps or the adoption of different decisions relating to a case (i.e. investigation reports, decision on the exercise of corrective powers, decision on the publicity of the decision) and at which moment the other CSAs should be consulted, while taking into consideration Recital 129 in line with the GDPR.

The second objective of the study is to identify general trends in relation to the national systems.

The third objective of the study is to provide a legal analysis of how the national specificities could potentially raise questions or challenges in relation to the application of the GDPR cooperation duties in the context of an OSS procedure.

The fourth and last objective of the study is to provide suggestions on how to combine the national and European frameworks and on possible solutions, including legislative initiatives, taking into consideration the respective scope of competence between the EU and the Member States.

A separate task was designed around each of the objectives to make sure that each one was sufficiently covered.

1.2 SCOPE OF THE STUDY

The study covers the 27 Member States of the European Union and the three EFTA-EEA States. It analyses the national administrative rules that might be applicable to the SAs' activities when they are carrying out their cooperation duties in the context of an OSS procedure.

1.3 METHODOLOGY OF THE STUDY

1.3.1 Research methods for task 1: desk research and creating a table

To complete the first task, relating to the first study objective, the team first proceeded with the analysis of all the Member States' national laws passed to implement the GDPR, in search for information on the national administrative rules applicable to the SAs' activities when carrying out their cooperation duties in the context of an OSS procedure. The EDPB Secretariat provided the team with the English translation of these national laws. Due to the language capacity of the team, some national laws were also studied in native languages.

In addition, a questionnaire was drafted and sent to the SAs of all the Member States and three EFTA-EEA Members (cf. the model in annex 1). Such a questionnaire was seen as the most efficient way to get first-hand and reliable information on the national administrative rules, which might have an impact on the cooperation mechanism instituted by the GDPR in the context of an OSS procedure. The twenty questions were validated by the EDPB Secretariat, which then disseminated the questionnaire centrally. The response rate from the SAs was very high (29 out of 30).

The team also analysed the responses provided by the SAs to a questionnaire conducted by the European Commission in the context of the evaluation of the GDPR, the completion of which is foreseen by Article 97 of the GDPR. The team reviewed those responses that related to questions on Chapter VII of the GDPR. These results were provided to the team by the EDPB Secretariat. It is noted that the results are also publicly available on the EDPB's website.

The EDPB Secretariat also provided the team with the results from two of their internal questionnaires regarding "amicable settlements" and regarding the investigation of complaints (specifically on the sharing of information before submitting a draft decision).

The team then populated an overview table (an excel file) with all the information gathered from the aforementioned sources. Due to methodological constraints, the information provided from these sources has not been validated.

1.3.2 Research methods for tasks 2, 3 and 4

Tasks 2, 3 and 4, covering second, third and fourth study objectives, were completed based on desk research and legal analysis of the information gathered during task 1.

1.4 STRUCTURE OF THE STUDY

The study dedicates separate sections to each of the six issues outlined in connection with the first objective. These sections provide:

- An overview of the national administrative rules applicable to the issue in question (this overview takes the form of a table, which provides a snapshot of the pertaining national administrative rules. The last column of the table states whether these rules are set out in national legislation or else stem from the practices of the supervisory authorities);
- General trends observed in relation to the applicable national administrative rules;
- Questions and challenges raised by the national administrative rules;
- Suggestions and possible solutions to the questions and challenges identified.

2 NATIONAL ADMINISTRATIVE RULES IMPOSING DEADLINES IMPACTING THE MOMENT ON WHICH THE DRAFT DECISION HAS TO BE SHARED WITH A CSA

2.1 OVERVIEW OF NATIONAL ADMINISTRATIVE RULES IMPOSING DEADLINES IMPACTING THE MOMENT WHEN THE DRAFT DECISION HAS TO BE SHARED WITH A CSA

Table 1: Overview of NARs imposing deadlines impacting the moment when the draft decision has to be shared with the CSAs

Member State/EEA State	NARs imposing deadlines impacting the moment when the draft decision has to be shared with CSAs	Origin of the rule (national legislation or SA's practice or interpretation)
Austria	<ul style="list-style-type: none"> ▪ Six-month time-limit to handle complaints & investigate ▪ This time-limit is suspended in case of an OSS procedure ▪ Draft decision is shared when all necessary evidence has been gathered and all parties heard (when the case is ready for decision) 	<ul style="list-style-type: none"> ▪ National legislation: Art. 73 of the General administrative Procedure Act (GAPA) ▪ National legislation: Art. 24(10) of the Federal Act concerning the Protection of Personal Data (DSG) ▪ SA's practice
Belgium	<ul style="list-style-type: none"> ▪ 30-day deadline for the litigation chamber to ask for additional investigations to be carried out by the Inspection Service, from the day the litigation chamber has been seized by the front office ▪ Draft decision is shared when parties have submitted their first conclusions 	<ul style="list-style-type: none"> ▪ National legislation: Arts. 55-56 and 69, 96 of the 2017 Act ▪ SA's practice
Bulgaria	<ul style="list-style-type: none"> ▪ No exact moment when draft decisions should be shared 	<ul style="list-style-type: none"> ▪ No information
Croatia	<ul style="list-style-type: none"> ▪ 30 to 60-day deadline to process requests and inquiries ▪ No exact moment when draft decisions should be shared 	<ul style="list-style-type: none"> ▪ SA's practice ▪ No information
Cyprus	<ul style="list-style-type: none"> ▪ 30-day deadline to examine a complaint and provide the complainant with some information 	<ul style="list-style-type: none"> ▪ National legislation: subsect. (b) and (c) of Art. 24 of the Law 125(I)/2018
Czech Republic	<ul style="list-style-type: none"> ▪ 30 to 60-day deadline to issue a decision ▪ This deadline may be extended ▪ No exact moment when draft decisions should be shared 	<ul style="list-style-type: none"> ▪ National legislation: sect. 71(1) and 71(3) of the Administrative Procedural Code (APC) ▪ National legislation: Art. 80(4) of the APC ▪ No information
Denmark	<ul style="list-style-type: none"> ▪ No deadlines to proceed were indicated by the SA ▪ No exact moment when draft decisions should be shared (until now they did not need to share information before submitting a draft decision) 	<ul style="list-style-type: none"> ▪ No information
Estonia	<ul style="list-style-type: none"> ▪ 30 to 60-day deadline to handle and settle complaints ▪ This deadline may be extended to a reasonable period 	<ul style="list-style-type: none"> ▪ National legislation: Art. 61 of the Personal Data Protection Act (PDPA) ▪ National legislation: Art. 33(1), (5) and (6), and Art. 53(1) of the Code of Civil Procedure
Finland	<ul style="list-style-type: none"> ▪ There are time-limits set up by law 	<ul style="list-style-type: none"> ▪ National legislation: Arts. 18-21, 23, 23(A) and 24(5) of the 2018 Data Protection Act (DPA)

Member State/EEA State	NARs imposing deadlines impacting the moment when the draft decision has to be shared with CSAs	Origin of the rule (national legislation or SA's practice or interpretation)
	<ul style="list-style-type: none"> A case should be considered without undue delay No exact moment when draft decisions should be shared; the SA considers that it should be shared once the fact finding and legal analysis are finalised and the decision has been taken by the SA, therefore enabling other SAs to express relevant and reasoned objections 	<ul style="list-style-type: none"> SA's practice SA's practice
France	<ul style="list-style-type: none"> No deadlines for handling complaints but three months of silence implies rejection of the complaint Draft decision from the Chair is shared as soon as it is adopted Draft decision from the restricted committee is shared after the hearing of data controller (DC) and/or data processor (DP) 	<ul style="list-style-type: none"> SA's practice and interpretation SA's practice and interpretation SA's practice and interpretation
Germany	<ul style="list-style-type: none"> No deadlines other than those set up by the GDPR No exact moment when the draft decision should be shared 	No information
Greece	<ul style="list-style-type: none"> No deadlines nor timeline The draft decision is shared with CSA after its approval by the College of Commissioners of the HDP 	<ul style="list-style-type: none"> SA's practice SA's practice
Hungary	<ul style="list-style-type: none"> In Hungary there is no regulation that prescribes when the draft decision has to be shared with the CSAs. However the Hungarian DPA has the following deadlines for its procedures: Two-month deadline for inquiry and 150 days for the authority procedure. The deadline for the authority procedure is suspended when performing cooperation duties Information is shared with other SAs when necessary before submitting the draft decision 	<ul style="list-style-type: none"> National legislation: Art. 55(1) of the 2011 Act CXII for inquiry, and Art 60/A (1) for authority procedure SA's practice
Iceland	<ul style="list-style-type: none"> No deadlines but cases should be handled quickly 	<ul style="list-style-type: none"> National legislation: Art. 9 of the Administrative Procedures Act (APA)
Ireland	<ul style="list-style-type: none"> No deadline nor timeline to handle a complaint or an investigation Information is shared from the beginning of the inquiry Draft decision is notified as soon as it is issued: the SA will share a draft decision with the other supervisory authorities concerned once the inquiry stage is complete and the respondent concerned has had the opportunity to be heard in relation to the decision-maker's draft decision. Circulating the draft decision at this point in time further ensures that the respondent has been afforded their fair procedural rights, pursuant to the Irish common law 	<ul style="list-style-type: none"> No information SA's practice SA's practice and interpretation of Sections 111 and 113 of the 2018 Act
Italy	<ul style="list-style-type: none"> Nine to twelve-month deadline for handling a complaint The time limit is suspended during an OSS procedure The draft decision is prepared after collecting CSAs opinions and it is shared after its approval by the Garante 	<ul style="list-style-type: none"> National legislation: Art. 143(3) of the Italian Data Protection Code (IDPC) National legislation: Art. 143(3) of the Italian Data Protection Code (IDPC) SA's practice
Latvia	<ul style="list-style-type: none"> One to four-month deadline to answer a complaint 	<ul style="list-style-type: none"> National legislation: cf. Administrative Procedure Law (APL)
Liechtenstein	<ul style="list-style-type: none"> Procedure should be as fast and simple as possible 	<ul style="list-style-type: none"> SA's practice
Lithuania	<ul style="list-style-type: none"> Four to six-month time-limit to investigate or inspect, but this time-limit does not apply in case of an OSS procedure 	<ul style="list-style-type: none"> National legislation: Art. 21(1) of the Law on Legal Protection of Personal Data (LGPD)

Member State/EEA State	NARs imposing deadlines impacting the moment when the draft decision has to be shared with CSAs	Origin of the rule (national legislation or SA's practice or interpretation)
	<ul style="list-style-type: none"> Four to six-month time-limit for the complaint handling procedure There are deadlines for the decision imposing administrative fines 	<ul style="list-style-type: none"> National legislation: Art. 21(2) of the LGPD National legislation: Art. 34(9) of the LGPD
Luxembourg	<ul style="list-style-type: none"> No deadlines for handling complaints but 3 months of silence implies a negative decision One month to decide to prosecute a case 	<ul style="list-style-type: none"> SA's interpretation and practice National legislation: Art. 38 of the 2018 Act and Art. 3 of the Regulation
Malta	<ul style="list-style-type: none"> No information 	<ul style="list-style-type: none"> No information
Netherlands	<ul style="list-style-type: none"> No deadlines but decisions must be reached in a reasonable period and the complainant must be informed 3 months after lodging the complaint 	<ul style="list-style-type: none"> SA's interpretation and practice
Norway	<ul style="list-style-type: none"> Decisions must be taken without undue delay 	<ul style="list-style-type: none"> SA's practice
Poland	<ul style="list-style-type: none"> Deadline of three months to deal with a complaint or to inform the complainant There are time-limits for control procedures There are time-limits for inspections 	<ul style="list-style-type: none"> National legislation and SA's interpretation: 2002 Act on Proceedings before Administrative Courts combined with 78(2) GDPR National legislation: cf. Art. 35 of the Code of Administrative Procedure (CAP) National legislation: cf. Art. 55 of the 2018 Law on Entrepreneurs
Portugal	<ul style="list-style-type: none"> Three-year time-limit for the fining procedure regarding Art. 86(5) GDPR infringements Two-year time-limit for Art. 83(4) GDPR infringements 	<ul style="list-style-type: none"> National legislation: Art. 40 of the 58/2019 Law
Romania	<ul style="list-style-type: none"> 45 to 90-day deadline to get a decision on the admissibility of the complaint The complainant should be informed within three months In case of cooperation duties, the complainant should be informed every three months Decision should be issued 45 days after the end of the investigation 	<ul style="list-style-type: none"> National legislation: Law 102/2005 and especially Art. 148 and 148(2)
Slovakia	<ul style="list-style-type: none"> 90 to 180-day deadline for the first stage decision Time-limits are suspended during investigations Time-limit of three years for the admissibility of a complaint 	<ul style="list-style-type: none"> National legislation: Art. 101(1) and (2) of the Act no. 18/2018 on Personal Data Protection (APDP)
Slovenia	<ul style="list-style-type: none"> 15 day- deadline for the first answer to a complaint Indicative two-month deadline (after receiving all the information) to handle a complaint 	<ul style="list-style-type: none"> National legislation: Art. 17 of the Decree on Administrative Operations
Spain	<ul style="list-style-type: none"> The law sets the timelines to handle complaints & investigations (nine months maximum since the decision to initiate a procedure or since the draft decision) These time limits are suspended when information must be collected or when there must be a consultation, a request for assistance or mandatory declarations, for the time between the request and the notification of the declaration to the Spanish SA 	<ul style="list-style-type: none"> National legislation: Art. 64(1), (2) and (4) of the Organic Law 3/2018 (OL 3/2018)
Sweden	<ul style="list-style-type: none"> Cases should be handled as simply, quickly and cost-efficiently as possible without risking legal certainty 	<ul style="list-style-type: none"> National legislation: Administrative Law

2.2 GENERAL TRENDS OBSERVED IN RELATION TO THE NATIONAL ADMINISTRATIVE RULES IMPOSING DEADLINES IMPACTING THE MOMENT WHEN THE DRAFT DECISION HAS TO BE SHARED WITH CSAS

In most countries, national administrative rules (national data protection laws or national general administrative laws) set **deadlines that could affect the moment on which draft decisions should be shared with other SAs**:

1. In twelve countries, national data protection laws set deadlines that could impact the moment of sharing draft decisions with other SAs:
Belgium, Cyprus, Estonia, Finland, Hungary, Italy, Lithuania, Luxembourg, Portugal, Romania, Slovakia and Spain.
2. In six countries, national general administrative laws set deadlines that could impact the moment of sharing draft decisions with other SAs:
Austria, Czech Republic, Iceland, Latvia, Poland and Slovenia.

In four countries, there are national administrative rules (national data protection laws or national general administrative laws) that provide **legal grounds to suspend or extend time-limits** in case of an OSS procedure:

1. In Austria and Hungary, national data protection laws provide for the suspension of time-limits in case of an OSS procedure.
2. In Czech Republic and Estonia, national general administrative laws provide legal grounds for extending time-limits in case of an OSS procedure.

In Italy, the time limit is suspended during an OSS procedure pursuant to Article 143.3 of the Italian Data Protection Code .

In Slovakia, time-limits are suspended during investigations (source: national data protection law) and in Spain, time limits are suspended when information must be collected or when there must be a consultation, a request for assistance or mandatory declarations, for the time between the request and the notification of the declaration to the Spanish SA.

Regarding the **moment at which draft decisions should be shared with other SAs**:

1. In seven countries, there is no exact moment when draft decisions should be shared with other SAs:
Bulgaria, Croatia, Czech Republic, Denmark, Finland Germany and Sweden.
2. In Austria, the draft decision is shared when the case is ready for decision-making (when evidence has been gathered and parties heard).
3. In six countries, the draft decision is or should be shared when the SA has adopted its decision:
Finland, Finland, France, Greece, Ireland and Italy.
4. In Belgium, the draft decision is shared when the parties have submitted their first conclusions.

2.3 QUESTIONS & CHALLENGES TO COOPERATION DUTIES STEMMING FROM THE APPLICATION OF NATIONAL ADMINISTRATIVE RULES IMPOSING DEADLINES IMPACTING THE MOMENT WHEN THE DRAFT DECISION HAS TO BE SHARED WITH CSAS

The application of national administrative rules imposing deadlines impacting the moment at which the draft decision has to be shared with CSAs may raise some questions and challenges to a smooth

implementation of the OSS mechanism.

1. It is not sure that all countries share the same definition of the term “deadlines” or at least that they have the same legal consequences (some deadlines seem to be indicative while others may relate to the admissibility of the procedure).
2. Deadlines are not the same in all the countries, which could lead to some inconsistencies when performing cooperation duties.
3. There is no coherence as to the moment when draft decisions should be shared with CSAs.
4. An issue may arise from the obligation to comply with some national administrative rules imposing strict deadlines for the pronouncement of a decision.

2.4 SUGGESTIONS AND POSSIBLE SOLUTIONS

1. Some countries provide for the suspension or the extension of time-limits or deadlines when investigating a case or when performing cooperation duties in the context of an OSS procedure. This mechanism (suspension or extension of time-limits or deadlines) could be part of a possible solution. However, the suspension or the extension of time-limits or deadlines should not be indefinite in time nor unjustified or discriminatory when comparing with other proceedings.
2. A more comprehensive solution could be the harmonisation of the applicable deadlines in the case of an OSS procedure for all countries. This harmonisation should be considered at European level (EDPB). However, due to the fact that some deadlines are fixed by national laws, guidelines may not be sufficient and a legislative initiative might therefore be required.
3. Regarding the moment when draft decisions should be shared with other CSAs, issuing guidelines at the European level (EDPB) might be the best solution.

3 NATIONAL ADMINISTRATIVE RULES REGARDING THE ADMISSIBILITY OF COMPLAINTS FROM INDIVIDUALS

3.1 OVERVIEW OF NATIONAL ADMINISTRATIVE RULES REGARDING THE ADMISSIBILITY OF COMPLAINTS FROM INDIVIDUAL

Table 2: Overview of NARs regarding the admissibility of complaints from individuals

Member State/EEA State	NARs regarding the admissibility of complaints from individuals	Origin of the rule (national legislation or SA's practice or interpretation)
Austria	<ul style="list-style-type: none"> Formal admissibility requirements Time limit to introduce the complaint 	<ul style="list-style-type: none"> National legislation: Art. 13(3) and 21.1-3 of the DSG National legislation: Art. 24(4) of the DSG
Belgium	<ul style="list-style-type: none"> Formal admissibility requirements, including language requirement for the complaint Admissibility of complaints is assessed by front office It is not clear whether complaints are admissible when they concern processing for journalistic purposes and for purposes of academic, artistic or literary expression 	National legislation: Art. 60 of the 2017 Act (cf. Art. 91 and 95 of 2017 Act for dismissal by litigation chamber and inspection service)
Bulgaria	<ul style="list-style-type: none"> Formal admissibility requirements, including language & writing requirements for the complaint 	<ul style="list-style-type: none"> National legislation: Art. 29 of the Rules on the activity of the Commission for Personal Data Protection and its administration
Croatia	<ul style="list-style-type: none"> Admissibility of complaints is ruled by the Law on Administrative Procedure 	<ul style="list-style-type: none"> National legislation: Law on Administrative Procedure
Cyprus	<ul style="list-style-type: none"> Admissibility of complaints is assessed by the Commissioner 	<ul style="list-style-type: none"> National legislation: Art. 24(d) of the Law 125(I)/2018
Czech Republic	<ul style="list-style-type: none"> No admissibility requirements 	<ul style="list-style-type: none"> No information
Denmark	<ul style="list-style-type: none"> No admissibility requirements 	<ul style="list-style-type: none"> No information
Estonia	<ul style="list-style-type: none"> No specific provision on complaints' admissibility requirements other than Administrative Procedure Act or Law Enforcement Act (normally no formal requirement as such but there might be internal thresholds at the SA level) 	<ul style="list-style-type: none"> National legislation: Administrative Procedure Act and Law Enforcement Act SA's practice (for internal thresholds)
Finland	<ul style="list-style-type: none"> Formal admissibility requirements 	<ul style="list-style-type: none"> No clear indication
France	<ul style="list-style-type: none"> Condition of prior exercise of data subject's (DS's) rights 	<ul style="list-style-type: none"> National legislation: Art. 49 of the Règlement intérieur de la CNIL (CNIL RoI)
Germany	<ul style="list-style-type: none"> No requirement for complaints' admissibility (even anonymous complaints are processed) 	<ul style="list-style-type: none"> No information
Greece	<ul style="list-style-type: none"> Manifestly vague, unfounded, improperly or anonymously lodged questions or complaints may be dismissed 	<ul style="list-style-type: none"> National legislation: Art. 13(2) of the Law 4624/2019
Hungary	<ul style="list-style-type: none"> Dismissal of minor infringements Dismissal of anonymous complaints 	<ul style="list-style-type: none"> National legislation: Art. 52 of the Act CXII of 2011 National legislation: Art. 53(2) and (3) of the Act CXII of 2011
Iceland	<ul style="list-style-type: none"> No information 	<ul style="list-style-type: none"> No information
Ireland	<ul style="list-style-type: none"> Irish SA (Data Protection Commissioner - DPC) does not have the same level of discretion in handling complaints as in some other countries; the DPC noted that this could lead to some difficulties in some cross-border cases where the DPC is not the 	<ul style="list-style-type: none"> SA's practice or interpretation

Member State/EEA State	NARs regarding the admissibility of complaints from individuals	Origin of the rule (national legislation or SA's practice or interpretation)
	<p>LSA</p> <ul style="list-style-type: none"> Admissibility requirements including language (in either Irish or English (Official Languages Act, 2003)) The SA carries out an initial examination of complaints received No implementation of Article 80(2) GDPR 	<ul style="list-style-type: none"> Section 107 of the 2018 Act Section 109 of the 2018 Act No information
Italy	<ul style="list-style-type: none"> Formal admissibility requirements 	<ul style="list-style-type: none"> National legislation: Art. 142 of the Legislative Decree No 196/2003
Latvia	<ul style="list-style-type: none"> Formal admissibility requirements Complaint can be dismissed in case of previous investigation by the Inspectorate 	<ul style="list-style-type: none"> National legislation: Art. 3 of the Law on Submission National legislation: cf. Art. 7 of the Law on Submission
Liechtenstein	<ul style="list-style-type: none"> No information 	<ul style="list-style-type: none"> No information
Lithuania	<ul style="list-style-type: none"> Obligation to investigate all complaints Condition of prior exercise of DS's rights 	National legislation: Art. 27(1)(1-8) of the LGPD
Luxembourg	<ul style="list-style-type: none"> Discretionary power when assessing complaints' admissibility 	<ul style="list-style-type: none"> SA's practice or interpretation
Malta	<ul style="list-style-type: none"> Complaints non admissible when no sufficient grounds to launch an investigation or no violation of DS' rights 	<ul style="list-style-type: none"> SA's practice or interpretation
Netherlands	<ul style="list-style-type: none"> Formal admissibility requirements The DS must qualify as an interested party Complaints are dismissed if they concern processing for journalistic purposes and for purposes of academic, artistic or literary expression 	<ul style="list-style-type: none"> National legislation: cf. Art. 4(1)-(5) of the General Administrative Law Act (GALA) National legislation: cf. Art. 1(2) of GALA National data protection law or SA's interpretation (?)
Norway	<ul style="list-style-type: none"> Duty to investigate all complaints regarding a possible data protection breach NSA considers that all complaints (Art. 57(1)(f) GDPR) should be handled by the SA 	SA's interpretation
Poland	<ul style="list-style-type: none"> Formal admissibility requirements 	<ul style="list-style-type: none"> National legislation: Art. 61(a), 63(2) and 64 of the CAP
Portugal	<ul style="list-style-type: none"> If the GDPR infringement is also a criminal offence, the Portuguese SA (CNPD) is not competent (public prosecutor will be solely competent to act) 	<ul style="list-style-type: none"> National legislation: Art. 55 of the Law 58/2019
Romania	<ul style="list-style-type: none"> Time limit of 45 to 90 days to get a decision on the admissibility of the complaint 	<ul style="list-style-type: none"> National legislation: Art. 148(2) of the Law amending and supplementing Law no. 102/2005
Slovakia	<ul style="list-style-type: none"> Complaints are inadmissible when reviewed at the same time by a court or a law enforcement authority or when DS does not cooperate Time limit of three years to introduce the complaint 	National legislation: Art. 100(5) of the APDP
Slovenia	<ul style="list-style-type: none"> Formal admissibility requirements applicable to complaints in the Inspection procedure Formal admissibility requirements applicable to complaints in the Administrative Procedure 	<ul style="list-style-type: none"> National legislation: Art. 24 of the Inspection Act National legislation: Art. 66(1) of the General Administrative Procedure Act
Spain	<ul style="list-style-type: none"> Formal admissibility requirements: description of the complaint is required Dismissal is possible when DC/DP has taken corrective measures or when no damage to DS or DS's rights are guaranteed by the implantation of 	National legislation: Arts. 64-65 of Organic Law 3/2018

Member State/EEA State	NARs regarding the admissibility of complaints from individuals	Origin of the rule (national legislation or SA's practice or interpretation)
	the measures	
Sweden	<ul style="list-style-type: none"> Admissibility of complaints: the SA distinguishes between request (57(4) GDPR) and complaint (57(1)(f) GDPR). It proceeds to an individual assessment of any case on a risk-based approach as laid down in the Supervision Policy 	<ul style="list-style-type: none"> SA's practice & interpretation

3.2 GENERAL TRENDS OBSERVED IN RELATION TO THE NATIONAL ADMINISTRATIVE RULES REGARDING THE ADMISSIBILITY OF COMPLAINTS FROM INDIVIDUALS

Complaints from individuals must usually comply with requirements laid down by national administrative rules stipulated either in national data protection laws and/or in national general administrative laws (e.g. formal requirements including the identification of the complainant, prior exercise of data subject's rights, substantiation of the complaint, language requirements or deadlines). Failing to meet these requirements might lead to the (early) dismissal of the complaint - but not always.

- The admissibility of complaints from individuals is conditional upon compliance with the formal requirements laid down in the national data protection laws in 13 countries:
Austria, Belgium, Bulgaria, France, Greece, Hungary, Ireland, Italy, Lithuania, Portugal, Romania, Slovenia (regarding the Inspection procedure) and Spain.
- The admissibility of complaints from individuals is conditional upon compliance with the formal requirements laid down in national general administrative rules in seven countries:
Croatia, Estonia, Ireland (language requirement), Latvia, the Netherlands, Slovenia (regarding the Administrative Procedure) and Poland.
- There are no formal requirements for the admissibility of complaints from individuals in four countries:
Czech Republic, Denmark, Germany and Norway.
- In Luxembourg, the national supervisory authority has a discretionary power when assessing complaints from individuals.
- Two countries explicitly impose the use of official languages for drafting the complaint:
Belgium and Bulgaria.
- In France, the admissibility of complaints from individuals is formally conditional upon the prior exercise of data subject's rights such as the right to access.
- In Slovakia, complaints from individuals are not admissible when they are reviewed by a court or a law enforcement authority.
- In Portugal, the SA is not competent when the infringement constitutes a criminal offence. In this case, the Public Prosecutor will be the sole competent authority entitled to proceed.
- Germany is the only country where anonymous complaints from individuals are admissible.
- In Hungary, complaints might be dismissed on ground of minor importance.
- In Malta, complaints from individuals are not admissible when there are not enough grounds to launch an investigation or no violation of data subject's rights.
- In Spain, complaints from individuals may be dismissed when the controller or the processor has taken corrective measures or when there is no damage for the data subject or when the data subject's rights are guaranteed by the implementation of the corrective measures.

13. In Belgium and in the Netherlands, it is not clear whether complaints are admissible if they concern processing for journalistic purposes and for purposes of academic, artistic or literary expression.
14. In Austria and in Slovakia, there is a time-limit for complaints introduced by individuals.

3.3 QUESTIONS & CHALLENGES TO COOPERATION DUTIES STEMMING FROM THE APPLICATION OF NATIONAL ADMINISTRATIVE RULES REGARDING THE ADMISSIBILITY OF COMPLAINTS FROM INDIVIDUALS

The application of national administrative rules on complaints' admissibility may raise some questions and challenges to a smooth implementation of the OSS mechanism.

1. The Swedish SA stresses the distinction between complaints (Article 57(1) of the GDPR) and requests (Article 57(4) of the GDPR). The SA insists on the legal consequences to be deduced from this distinction. In its view, all complaints must be processed. Requests may only be dismissed on grounds laid down by Article 57(4) of the GDPR. It is not clear whether all Member States share this interpretation of these provisions of the GDPR.
2. In general, national legislation laid down requirements for the admissibility of complaints. But, the nature and the content of these requirements vary from one country to another (identification of the complainant, signature of the complainant, deadlines, content of the complaint, description of the facts, identification of the controller and processor, prior exercise of data subject's rights, language, time-limit, violation of data subject's rights, damage to data subject, etc.). It means that one complaint could be admissible in one country while not in another. This could lead to difficulties for the OSS procedure if the application of laws of CSA and LSA leads to different results.
3. It is not clear either whether the OSS procedure is followed when a complaint is deemed inadmissible for whatever reason. Notably, it is not clear whether there is any information shared with other CSAs.
4. There are obvious reasons why national legislation and practices set admissibility rules (e.g. to ensure the efficiency of the procedure and procedural motives). At the same time, however, such national rules and practices can hinder the identification of serious breaches in the implementation of the GDPR rules in cross-border processing. This is true in particular if there is no sharing of information about non-admissible cases between the SAs.

3.4 SUGGESTIONS AND POSSIBLE SOLUTIONS

In our view, the main issue with the non-admissibility of complaints from individuals decided on grounds of national administrative rules or practices is that there might be no sharing of information with other SAs about the possible cross-border processing involved in the complaint, which could contribute to a (relative) weakening of the level of data protection in Europe. In other words, it could lead to some missed opportunities when trying to identify data protection infringements at European level.

At this stage, the minimalistic solution could be to issue guidelines regarding the sharing of information on complaints from individuals related to cross-border processing, which have been deemed non-admissible by SAs.

It might be advisable to first gather best practices from SAs on the admissibility of complaints from individuals, and then to try and issue guidelines at the level of the EDPB, which would help to harmonise the criteria for addressing complaints from individuals (the intention could be to opt for the maximum information to be sure to meet all MS requirements but without creating unjustified obstacles to the data subject's right to complain). These guidelines should cover aspects which have been identified when analysing the national administrative rules on the admissibility of complaints from individuals and

include the following information in particular:

1. paper procedure or/and electronic procedure,
2. identification of the complainant,
3. signature of the complainant,
4. time-limit for introducing a complaint,
5. content of the complaint,
6. description of the facts,
7. identification of controller and processor,
8. prior exercise of data subject's rights,
9. violation of data subject's rights,
10. deadlines for addressing the complaint,
11. language to be used by complainant,
12. damage suffered by data subject, etc.

4 NATIONAL ADMINISTRATIVE RULES ON THE RIGHT TO BE HEARD

4.1 OVERVIEW OF NATIONAL ADMINISTRATIVE RULES ON THE RIGHT TO BE HEARD

Table 3: Overview of NARs on the right to be heard

Member State/EEA State	NARs on the right to be heard	Origin of the rule (national legislation or SA's practice or interpretation)
Austria	<ul style="list-style-type: none"> Parties must be heard on any piece of evidence and this has to be done before consulting CSAs 	<ul style="list-style-type: none"> SA's practice
Belgium	<ul style="list-style-type: none"> Hearing may take place when the case is ready There is no indication if this should occur before/after consulting CSAs 	National legislation: Art. 98 of the 2017 Act
Bulgaria	<ul style="list-style-type: none"> Hearing of the parties at the meeting of the SA CSAs should be consulted before the hearing or at least in parallel with the hearing 	SA's practice
Croatia	<ul style="list-style-type: none"> There is no indication of a duty to hear the parties but they can submit statements anytime during the proceedings 	<ul style="list-style-type: none"> National legislation: cf. Art. 30 of the Law on Administrative Procedure
Cyprus	<ul style="list-style-type: none"> Hearing possible before the submission of the draft decision to CSAs 	<ul style="list-style-type: none"> SA's practice
Czech Republic	<ul style="list-style-type: none"> No information 	<ul style="list-style-type: none"> No information
Denmark	<ul style="list-style-type: none"> There is no specific provision in the national data protection law regarding the hearing of the parties 	<ul style="list-style-type: none"> No information
Estonia	<ul style="list-style-type: none"> There should be a hearing of the parties 	<ul style="list-style-type: none"> National legislation: Art. 40 of the Administrative Procedure Act
Finland	<ul style="list-style-type: none"> Parties should be heard before a decision is made The hearing should happen after sharing the draft decision (for DS's complaint) Regarding fining procedure, CSAs are informed of the hearing 	<ul style="list-style-type: none"> National Administrative Legislation SA's practice SA's practice
France	<ul style="list-style-type: none"> There seems to be no duty to hear DC and/or DP before the Chair but well before the Restricted Committee There will be a second round of hearing before the Restricted Committee in case of relevant and reasoned objections from CSAs 	SA's practice
Germany	<ul style="list-style-type: none"> Parties must be heard before the issuing of the administrative act 	<ul style="list-style-type: none"> No information
Greece	<ul style="list-style-type: none"> Parties must be heard before the draft decision 	<ul style="list-style-type: none"> SA's practice
Hungary	<ul style="list-style-type: none"> In the course of the procedure, the party may make a statement or observation at any time 	<ul style="list-style-type: none"> Section 5 of Act CL of 2016 on the Code of General Administrative Procedure
Iceland	<ul style="list-style-type: none"> Parties should be heard before a decision is made 	<ul style="list-style-type: none"> National legislation: Art. 13 of APA
Ireland	<ul style="list-style-type: none"> It is always necessary to contact the DC/DP and let them be heard: the respondent is entitled to be heard in relation to the case against it (the respondent must be heard before the draft decision is circulated via the Article 60 process because, if no objections are raised, the SA will be required by Article 60(7) of the GDPR to adopt the decision. If, in such a case, the respondent has not been afforded their right to be heard prior to circulation of the draft decision, the respondent will have been deprived of their right to be heard) 	<ul style="list-style-type: none"> SA's practice and interpretation of the law
Italy	<ul style="list-style-type: none"> Parties have the right to be heard throughout the 	<ul style="list-style-type: none"> Article 166(6) of the Italian

Member State/EEA State	NARs on the right to be heard	Origin of the rule (national legislation or SA's practice or interpretation)
	<ul style="list-style-type: none"> investigational steps and before the adoption of any corrective measures or administrative fines (except for urgent situations) There is no indication on when to consult CSAs but in practice CSAs are kept in the loop at all stages of the proceeding 	Data Protection Code
Latvia	<ul style="list-style-type: none"> Parties must be heard before the draft decision 	<ul style="list-style-type: none"> National legislation: cf. APL
Liechtenstein	<ul style="list-style-type: none"> Parties should have a reasonable opportunity to present their case before the consultation of CSAs 	<ul style="list-style-type: none"> SA's practice
Lithuania	<ul style="list-style-type: none"> Parties are heard before the draft decision is sent to CSAs 	<ul style="list-style-type: none"> SA's practice
Luxembourg	<ul style="list-style-type: none"> Parties have the right to be heard during all the phases leading to a final decision. This should take place before consulting CSAs 	<ul style="list-style-type: none"> SA's practice
Malta	<ul style="list-style-type: none"> Parties are heard or asked to make submissions at the investigation stage. There is no right to be heard before the decision is issued 	<ul style="list-style-type: none"> SA's practice
Netherlands	<ul style="list-style-type: none"> Parties may present their views on the investigating report in case of an OSS procedure so that it can be taken into account in the draft decision 	<ul style="list-style-type: none"> SA's practice
Norway	<ul style="list-style-type: none"> Duty to hear the parties during the fact-finding phase and during the phase of notification of the intent to make a decision 	<ul style="list-style-type: none"> SA's practice
Poland	<ul style="list-style-type: none"> Parties are heard before the consultation with CSAs and before the draft decision is submitted to them For cross-border cases the draft decision is submitted to other SAs after notification to the complainant and to DC/DP to allow them to express their views on the evidence and materials collected and claims made 	National legislation: cf. Art. 10(1) of the CAP
Portugal	<ul style="list-style-type: none"> Hearing of the DC/DP after sharing the draft decision 	<ul style="list-style-type: none"> SA's practice
Romania	<ul style="list-style-type: none"> No information 	<ul style="list-style-type: none"> No information
Slovakia	<ul style="list-style-type: none"> Parties have the right to be heard in the official administrative proceedings 	<ul style="list-style-type: none"> SA's practice
Slovenia	<ul style="list-style-type: none"> Parties have the right to be heard before decision-making and before consulting CSAs 	<ul style="list-style-type: none"> National legislation: cf. Art. 29 of the Inspection Act and Art. 9(1) of the General Administrative Procedure Act
Spain	<ul style="list-style-type: none"> Parties must be heard when the case is ready and before the definite draft decision There is no indication on the consultation with CSAs 	<ul style="list-style-type: none"> SA's practice No information
Sweden	<ul style="list-style-type: none"> Discretionary power to hear the parties 	<ul style="list-style-type: none"> SA's practice

4.2 GENERAL TRENDS OBSERVED IN RELATION TO THE NATIONAL ADMINISTRATIVE RULES ON THE RIGHT TO BE HEARD

Deriving from the SA's practices it seems that in most countries, the parties involved in an OSS procedure have the right to be heard. The extent to which these rules are based on national general administrative laws (national data protection laws or national general administrative rules) is not always clear. This is due to the fact that the sources consulted did not systematically specify the legal basis of the rules. With this caveat in mind, the following trends could be identified:

1. In seventeen countries, the right to be heard is based upon the practice of the SAs:
Austria, Bulgaria, Cyprus, Finland, France, Greece, Ireland, Liechtenstein, Lithuania, Luxembourg, Malta, the Netherlands, Norway, Portugal, Slovakia, Spain and Sweden.
2. In six countries, the right to be heard (in a broad sense) is based upon national general

administrative laws:

Croatia, Estonia, Iceland, Latvia, Poland and Slovenia,

3. In Belgium and Italy, the national data protection law recognises the right to be heard.

It is not clear whether **data subjects** have the right to be heard or whether this right benefits only the **controllers or processors**.

Regarding the **moment when parties should be heard:**

1. In Malta and Norway, parties are heard during the investigation stage or the fact-finding phase.
2. In Germany, Iceland and Slovenia, parties should be heard before making a decision.
3. In five countries, parties must be heard before the draft decision:
4. Greece, Latvia, The Netherlands, Poland and Spain.
5. In seven countries, parties should be heard before consulting other SAs:
6. Austria, Bulgaria, Cyprus, Liechtenstein, Lithuania, Poland and Slovenia.
7. In Finland and Portugal, parties should be heard after sharing the draft decision.
8. In Belgium, there is no indication whether the hearing of the parties should occur before or after consulting other SAs.
9. In France, there will be a second round of hearing in case of relevant and reasoned objections from CSAs.
10. In Ireland, the respondent must be heard before the draft decision is circulated.

4.3 QUESTIONS & CHALLENGES TO COOPERATION DUTIES STEMMING FROM THE APPLICATION OF NATIONAL ADMINISTRATIVE RULES ON THE RIGHT TO BE HEARD

The right to be heard exists to some extent in 25 countries. However, there is no harmonisation as to who should be heard (the ones under investigation or the complainants or the data subjects) nor as to the moment when parties should be heard: during the investigation or the fact-finding phase, before or after sharing the draft decision.

The non-respect of the right to be heard at national level could jeopardise the validity of decisions adopted in an OSS procedure e.g. on the ground of violation of a fundamental right of the prosecuted party.

4.4 SUGGESTIONS AND POSSIBLE SOLUTIONS

1. It is recommended for the EDPB to issue a declaration (or similar) highlighting the importance of, or even the fundamental nature of, the right to be heard in the context of OSS proceedings.
2. At the same time, we should consider the procedural position of the parties to be heard. Indeed, the fact that parties must be heard does not per se imply that they are parties at the procedure (from a procedural point of view). They may be only concerned by the procedure or be the ones under investigation without formally being parties in the procedure. In other words, we should assess the determination of the parties who are procedurally involved in the OSS procedure and of those who are only concerned by the procedure. Article 41 of the EU Charter offers every person (physical or legal) the right to be heard before any individual measure that would adversely affect him or her is taken.
3. We should then consider the practical aspects of the right to be heard: should it be exercised written or orally, or both and at what time and in the presence of what parties (SA, CSA, data subjects, etc.)? At EU level, case law exists on this and it is possible for it to be exercised in

written form only.

5 NATIONAL ADMINISTRATIVE RULES ON AMICABLE SETTLEMENTS

5.1 OVERVIEW OF NATIONAL ADMINISTRATIVE RULES ON AMICABLE SETTLEMENTS

Table 4: Overview of NARs regarding rules on amicable settlements

Member State/EEA State	NARs on amicable settlements	Origin of the rule (national legislation or SA's practice or interpretation)
Austria	<ul style="list-style-type: none"> Amicable settlements are possible between DC/DP & complainant 	<ul style="list-style-type: none"> National legislation: Art. 24(6) of DSG
Belgium	<ul style="list-style-type: none"> Amicable settlements are possible between DC/DP & complainant 	<ul style="list-style-type: none"> SA's practice or interpretation
Bulgaria	<ul style="list-style-type: none"> Amicable settlements are possible 	<ul style="list-style-type: none"> National legislation: Art. 20 of the APC
Croatia	<ul style="list-style-type: none"> Amicable settlements are not provided for under the national GDPR Law (LoLoGDPR) 	<ul style="list-style-type: none"> No information
Cyprus	<ul style="list-style-type: none"> The notion of amicable settlement does not exist in national law, but it could be used in data protection 	<ul style="list-style-type: none"> SA's interpretation
Czech Republic	<ul style="list-style-type: none"> Czech law knows the notion of amicable settlement but it is not applied by the SA in this sense: in practice, the SA may discontinue a case when the purpose of the proceedings has been achieved 	<ul style="list-style-type: none"> SA's interpretation and practice based on Art. 65 of the Act No 110/2019
Denmark	<ul style="list-style-type: none"> Amicable settlements are not possible between DC/DP and SA 	<ul style="list-style-type: none"> SA's interpretation
Estonia	<ul style="list-style-type: none"> Amicable settlement does not exist in data protection legislation, but it could be implemented thanks to the Administrative Procedure Act 	<ul style="list-style-type: none"> SA's interpretation based on Art. 95 of the Administrative Procedure Act
Finland	<ul style="list-style-type: none"> Amicable settlements are possible between DC/DP and complainant 	<ul style="list-style-type: none"> SA's interpretation
France	<ul style="list-style-type: none"> No information 	<ul style="list-style-type: none"> No information
Germany	<ul style="list-style-type: none"> Amicable settlements are possible between DC/DP and complainant but not between SA and DC/DP 	<ul style="list-style-type: none"> No information
Greece	<ul style="list-style-type: none"> It is not possible for the SA to conclude an amicable settlement 	<ul style="list-style-type: none"> SA's interpretation
Hungary	<ul style="list-style-type: none"> Amicable settlements between DC/DP and complainant are possible 	<ul style="list-style-type: none"> National legislation: cf. Arts. 51(A)-58 of the 2011 Act CXII and by the Section 75 and 83 of Act CL of 2016 of the Code of General Administrative Procedure (CGAP)
Iceland	<ul style="list-style-type: none"> Amicable settlements between DC/DP and complainant are possible 	<ul style="list-style-type: none"> SA's interpretation
Ireland	<ul style="list-style-type: none"> Amicable settlements between DC/DP and complainant are possible When reaching an amicable settlement, the complaint is deemed to have been withdrawn (but the SA may pursue its own inquiry, if it deems fit) 	<ul style="list-style-type: none"> National legislation: Art. 109 of the DPA SA's practice
Italy	<ul style="list-style-type: none"> Amicable settlements between DC/DP and complainant are possible 	<ul style="list-style-type: none"> SA's interpretation based on Art. 57(1) and 77(1) of the GDPR
Latvia	<ul style="list-style-type: none"> Amicable settlements are possible and it seems to be possible between the SA and DC/DP 	<ul style="list-style-type: none"> SA's interpretation based on Art. 80(1) of the APL
Liechtenstein	<ul style="list-style-type: none"> Amicable settlements are possible 	<ul style="list-style-type: none"> No information
Lithuania	<ul style="list-style-type: none"> National Law on legal protection of personal data does not regulate amicable settlements 	<ul style="list-style-type: none"> No information
Luxembourg	<ul style="list-style-type: none"> The Luxembourg SA (CNPD) always seeks to find a 	<ul style="list-style-type: none"> SA's practice

Member State/EEA State	NARs on amicable settlements	Origin of the rule (national legislation or SA's practice or interpretation)
	conciliating solution	
Malta	<ul style="list-style-type: none"> ▪ Amicable settlements are envisaged 	<ul style="list-style-type: none"> ▪ No information
Netherlands	<ul style="list-style-type: none"> ▪ The Dutch SA may mediate the parties 	<ul style="list-style-type: none"> ▪ SA's interpretation and practice
Norway	<ul style="list-style-type: none"> ▪ There is no formal concept of amicable settlement in Norwegian law. But it is possible to solve the case in ways other than with a sanction 	<ul style="list-style-type: none"> ▪ SA's interpretation
Poland	<ul style="list-style-type: none"> ▪ Amicable settlements between the SA and DC/DP are not possible ▪ Amicable settlements only possible for cross-border cases with local impacts only 	SA's interpretation based on Recital 131 and Art. 56(2) of the GDPR
Portugal	<ul style="list-style-type: none"> ▪ Amicable settlements are not possible 	<ul style="list-style-type: none"> ▪ No information
Romania	<ul style="list-style-type: none"> ▪ No information 	<ul style="list-style-type: none"> ▪ No information
Slovakia	<ul style="list-style-type: none"> ▪ Amicable settlements are possible between DC/DP and complainant 	<ul style="list-style-type: none"> ▪ No information
Slovenia	<ul style="list-style-type: none"> ▪ Formally, there are no amicable settlements possible 	<ul style="list-style-type: none"> ▪ No information
Spain	<ul style="list-style-type: none"> ▪ Amicable settlements are possible between DC/DP and complainant 	<ul style="list-style-type: none"> ▪ National legislation: Art. 37(2) and 65(3) of the OL 3/2018
Sweden	<ul style="list-style-type: none"> ▪ Amicable settlements are not possible 	<ul style="list-style-type: none"> ▪ No information

5.2 GENERAL TRENDS OBSERVED IN RELATION TO THE NATIONAL ADMINISTRATIVE RULES ON AMICABLE SETTLEMENTS

Amicable settlements between controllers or processors and data subjects as complainants are possible in most countries whether on grounds of national data protection laws or of national general administrative laws. We received no clear information or indication on whether the conclusion of amicable settlements would take place prior to the consultation of CSAs on draft decisions.

1. In three countries, amicable settlements between controllers or processors and complainants are possible on grounds of national data protection laws:
2. Austria, Hungary and Ireland.
3. In three countries, amicable settlements between controllers or processors and complainants are possible on grounds of national general administrative laws.
4. Bulgaria, Estonia and Latvia.
5. In twelve countries, amicable settlements between controllers or processors and complainants are deemed possible, but with no clear view or indication on the legal basis:
6. Belgium, Finland, Germany, Hungary, Iceland, Italy, Liechtenstein, Luxembourg, Malta, the Netherlands, Slovakia and Spain.
7. In three countries, amicable settlements between controllers or processors and complainants are not possible:
8. Portugal, Slovenia and Sweden.
9. In Cyprus and Norway, amicable settlements between controllers or processors and complainants do not exist on grounds of national general administrative laws, with no indication on their possibility on other legal grounds.
10. In six countries, we received a clear indication that amicable settlements between controllers or processors and SAs are not possible:
11. Denmark, Germany, Poland, Portugal, Slovenia and Sweden.

12. In Latvia, amicable settlements between controllers or processors and SAs are possible on ground of SA's interpretation or practice.
13. In Poland, amicable settlements are possible for cross-border cases with local impact only.

5.3 QUESTIONS & CHALLENGES TO COOPERATION DUTIES STEMMING FROM THE APPLICATION OF NATIONAL ADMINISTRATIVE RULES ON AMICABLE SETTLEMENTS

The application of national administrative rules on amicable settlements may raise some questions and challenges to a smooth implementation of the OSS mechanism.

1. The possibility to reach an amicable settlement between controllers or processors and complainants does not exist in all countries. This might become problematic in cases where countries acknowledging amicable settlements and countries that do not acknowledge such settlements engage in an OSS procedure.
2. Amicable settlements between the SA and controllers or processors are explicitly possible in Latvia. But this kind of settlement is not possible in at least six other countries (it cannot be said whether it is possible or impossible in the other countries). Again, this might become problematic in cases where countries that acknowledge amicable settlements engage in an OSS procedure with countries that do not acknowledge such settlements.
3. There might be a controversy on whether amicable settlements are possible for cross-border cases with a broader impact than just locally.
4. Where amicable settlements are reached, there is no clear indication on their impact on the OSS procedure - in particular on whether and when this information will be shared with the other relevant SAs. This in turn means that even if parties enter in an amicable settlement in one country, this fact does not preclude initiation or continuation of the procedure in any other country in case of cross-border procedures.

5.4 SUGGESTIONS AND POSSIBLE SOLUTIONS

The best solution is to draft comprehensive Guidelines on amicable settlements in an OSS procedure at the European (EDPB) level with a specific focus on the sharing of information on amicable settlements between SAs (eventually before their finalisation stage) and their legal effects for the parties concerned (including the data subjects).

6 NATIONAL ADMINISTRATIVE RULES ON THE PRIOR NOTIFICATION OF FORTHCOMING INVESTIGATIONS OR EXERCISE OF CORRECTIVE POWERS

6.1 OVERVIEW OF NATIONAL ADMINISTRATIVE RULES ON THE PRIOR NOTIFICATION OF FORTHCOMING INVESTIGATIONS OR EXERCISE OF CORRECTIVE POWERS

Table 5: Overview of NATs on the prior notification of forthcoming investigations or exercise of corrective powers

Member State/EEA State	NARs on the prior notification of forthcoming investigations or exercise of corrective powers	Origin of the rule (national legislation or SA's practice or interpretation)
Austria	<ul style="list-style-type: none"> No obligation to notify DC/DP of forthcoming investigation or exercise of corrective powers 	<ul style="list-style-type: none"> SA's interpretation
Belgium	<ul style="list-style-type: none"> No obligation to notify DC/DP of forthcoming investigation or exercise of corrective powers 	<ul style="list-style-type: none"> SA's interpretation
Bulgaria	<ul style="list-style-type: none"> DC/DP are immediately notified of forthcoming investigation or exercise of corrective powers 	<ul style="list-style-type: none"> SA's practice
Croatia	<ul style="list-style-type: none"> Obligation to notify DC/DP of forthcoming investigation or exercise of corrective powers (e.g. obligation to notify the DC/DP/DS of joint investigations (including the presence of representatives of other SA's) before the operation) But there might be unannounced and announced supervisions onsite 	<ul style="list-style-type: none"> National legislation: cf. Art. 15(4) of the LoIoGDPR SA's practice
Cyprus	<ul style="list-style-type: none"> <u>Forthcoming investigation</u>: no obligation to notify DC/DP <u>Forthcoming exercise of corrective powers</u>: DC/DP have the right to be heard before drafting a decision; the latter will then be submitted to CSAs 	<ul style="list-style-type: none"> SA's practice and interpretation
Czech Republic	<ul style="list-style-type: none"> Obligation to notify DC/DP of a forthcoming investigation or exercise of corrective powers: the parties to proceedings have to be notified about the initiation of the proceedings 	<ul style="list-style-type: none"> SA's practice and interpretation
Denmark	<ul style="list-style-type: none"> Obligation to notify DC/DP of forthcoming investigation or exercise of corrective powers There will be some contact between DC/DP with the SA if the decision is not going to be favourable and the party must know that the Danish SA has some specific information in order to allow the party to make a statement 	<ul style="list-style-type: none"> SA's practice and interpretation based on national administrative rules
Estonia	<ul style="list-style-type: none"> No information 	<ul style="list-style-type: none"> No information
Finland	<ul style="list-style-type: none"> No obligation to notify DC/DP of a forthcoming investigation or exercise of corrective powers except for onsite inspection But notification of the starting time of the inspection except if this would jeopardise it 	<ul style="list-style-type: none"> SA's practice and interpretation National legislation: cf. Art. 39 of the Administrative Procedure Act
France	<ul style="list-style-type: none"> <u>Forthcoming investigation</u>: no prior information <u>Forthcoming exercise of corrective powers</u>: no prior notification of Chair's Decision but for Decisions issued by the Restricted Committee, DC/DP are informed of the designation of a Rapporteur (the draft report is notified to DC/DP, the latter will be heard during the restricted session and they may produce observations – the decision is notified to the controller) 	<ul style="list-style-type: none"> National legislation: Art. 26 of the Decree National legislation: Art. 20-23 of the LIL Act and Art. 38-45 of the Decree
Germany	<ul style="list-style-type: none"> Obligation to notify DC/DP of forthcoming investigation or exercise of corrective powers: participants of a case have the right to be heard and inspect documents 	<ul style="list-style-type: none"> National legislation: cf. Arts. 28-29 of the Federal Administrative Procedures Act (VwVfG)
Greece	<ul style="list-style-type: none"> No obligation to notify DC/DP of forthcoming investigation or exercise of corrective powers 	<ul style="list-style-type: none"> No information

Member State/EEA State	NARs on the prior notification of forthcoming investigations or exercise of corrective powers	Origin of the rule (national legislation or SA's practice or interpretation)
Hungary	<ul style="list-style-type: none"> ▪ No obligation to contact DC/DP for a mere inquiry ▪ But in case of an Authority procedure for data protection, DC/DP must be notified at the beginning of the procedure (there are exceptions) 	<ul style="list-style-type: none"> ▪ Section 104 (3) of Act CL of 2016
Iceland	<ul style="list-style-type: none"> ▪ Obligation to notify DC/DP of forthcoming investigation or exercise of corrective powers 	<ul style="list-style-type: none"> ▪ National legislation: cf. Arts. 13-14 of the APA
Ireland	<ul style="list-style-type: none"> ▪ Obligation to notify DC/DP of forthcoming investigation or exercise of corrective powers: DC should be contacted or notified during the investigation of a complaint: <ol style="list-style-type: none"> 1. The respondent is entitled to notice of the complaint made against them; 2. The respondent is entitled to know the details of the case against them; 3. The respondent is entitled to be heard in relation to the case against them (the respondent must be heard before the draft decision is circulated via the Article 60 process because, if no objections are raised, the SA will be required by Article 60(7) of the GDPR to adopt the decision. If, in such a case, the respondent has not been afforded the right to be heard prior to circulation of the draft decision, the respondent will have been deprived of their right to be heard) 	<ul style="list-style-type: none"> ▪ SA's practice
Italy	<ul style="list-style-type: none"> ▪ Obligation to notify DC/DP of forthcoming investigation or exercise of corrective powers before adopting corrective powers or imposing administrative fines ▪ DC/DP should be notified before starting an OSS procedure 	<ul style="list-style-type: none"> ▪ National legislation: Art. 166 of the IDPC ▪ SA's interpretation
Latvia	<ul style="list-style-type: none"> ▪ Obligation to notify DC/DP of forthcoming investigation 	<ul style="list-style-type: none"> ▪ National legislation: Art. 15 of the PDP Law
Liechtenstein	<ul style="list-style-type: none"> ▪ Notification before accessing the premises of DC/DP and before consulting SAs 	<ul style="list-style-type: none"> ▪ National legislation: Art. 17 of the Data Protection Act (DPA)
Lithuania	<ul style="list-style-type: none"> ▪ No obligation to notify DC/DP of forthcoming investigation or exercise of corrective powers before a final decision is made. The draft decision is only submitted to CSAs but not to DC/DP (they only receive the final decision) 	<ul style="list-style-type: none"> ▪ SA's interpretation and practice
Luxembourg	<ul style="list-style-type: none"> ▪ Forthcoming investigation: notification of the opening of an investigation (except when unexpected visit is necessary) before consulting other CSAs ▪ Forthcoming exercise of corrective powers: notification of the DC/DP before consulting other CSAs 	<ul style="list-style-type: none"> ▪ National legislation: Art. 8(1) of the Regulation ▪ SA's practice
Malta	<ul style="list-style-type: none"> ▪ Not always an obligation to notify DC/DP of a forthcoming investigation or exercise of corrective powers 	<ul style="list-style-type: none"> ▪ SA's interpretation
Netherlands	<ul style="list-style-type: none"> ▪ Obligation to notify DC/DP of forthcoming investigation or exercise of corrective powers to some extent 	<ul style="list-style-type: none"> ▪ SA's interpretation
Norway	<ul style="list-style-type: none"> ▪ Obligation to notify DC/DP before making an administrative decision (no precision if this should occur before/after consulting CSA on the draft decision) 	<ul style="list-style-type: none"> ▪ National legislation: Art. 16 of the Personal Data Act (PAA)
Poland	<ul style="list-style-type: none"> ▪ Obligation to notify DC/DP of forthcoming investigation or exercise of corrective powers: in practice, 7 days' notice before the inspection 	<ul style="list-style-type: none"> ▪ National legislation: cf. Art. 48 of the 2018 Law on Entrepreneurs
Portugal	<ul style="list-style-type: none"> ▪ No obligation to notify DC/DP of forthcoming investigation or exercise of corrective powers 	<ul style="list-style-type: none"> ▪ SA's interpretation
Romania	<ul style="list-style-type: none"> ▪ No information 	<ul style="list-style-type: none"> ▪ No information
Slovakia	<ul style="list-style-type: none"> ▪ The obligation to notify DC/DP of forthcoming investigation or exercise of corrective powers takes place before consulting other SAs on the draft decision 	<ul style="list-style-type: none"> ▪ National legislation: Arts. 18(3) and 33(2) of the Administrative

Member State/EEA State	NARs on the prior notification of forthcoming investigations or exercise of corrective powers	Origin of the rule (national legislation or SA's practice or interpretation)
		Proceedings Act (APA)
Slovenia	<ul style="list-style-type: none"> ▪ No formal obligation to notify DC/DP of forthcoming investigation or exercise of corrective powers but it can be done 	<ul style="list-style-type: none"> ▪ National legislation: cf. Art. 24(4) of the Inspection Act ▪ SA's interpretation
Spain	<ul style="list-style-type: none"> ▪ No obligation to notify DC/DP of forthcoming investigation or exercise of corrective powers ▪ But in practice, DC/DP are informed of the facts e.g. to open the way to an amicable settlement and to answer SAs' questions 	SA's practice
Sweden	<ul style="list-style-type: none"> ▪ No obligation to notify DC/DP of forthcoming investigation or exercise of corrective powers ▪ But there would be a contact with DC/DP in case of an audit 	SA's interpretation and practice

6.2 GENERAL TRENDS OBSERVED IN RELATION TO THE NATIONAL ADMINISTRATIVE RULES ON THE PRIOR NOTIFICATION OF FORTHCOMING INVESTIGATIONS OR EXERCISE OF CORRECTIVE POWERS

National administrative rules regarding the prior notification of forthcoming investigations or exercise of corrective powers show the following differences:

1. In nine countries, there is no obligation to notify controllers or processors of forthcoming investigations or exercise of corrective powers:
2. Austria, Belgium, Finland, Greece, Lithuania, Portugal, Slovenia, Spain and Sweden.
3. In Cyprus and France, there is no obligation to notify controllers or processors of forthcoming investigations.
4. In five countries, there is an obligation to notify controllers or processors of forthcoming investigations or exercise of corrective powers, based on national data protection laws:
5. Croatia, Italy, Latvia, Liechtenstein and Luxembourg (before consulting CSAs).
6. In seven countries, there is an obligation to notify controllers or processors of forthcoming investigations or exercise of corrective powers, based on national general administrative laws:
7. Denmark, Germany, Hungary (for formal request but not for a mere inquiry), Iceland, Norway, Poland and Slovakia (before consulting CSAs on the draft decision)
8. In five countries, there is an obligation to notify controllers or processors of forthcoming investigations or exercise of corrective powers, based on SA's practice:
9. Bulgaria, Czech Republic, Finland (for on-site inspection), Ireland and the Netherlands.
10. In Cyprus, there is an obligation to notify controllers or processors of a forthcoming exercise of corrective powers, based on SA's practice.
11. In France, there is an obligation to notify controllers or processors of a forthcoming exercise of corrective powers, based on national data protection laws.
12. In Malta, there is not always an obligation to notify controllers or processors of forthcoming investigations or exercise of corrective powers.
13. In Spain, controllers or processors are informed of the facts in order to open the way to amicable settlements and to allow them to answer the SA's questions.
14. In Sweden, there will be a contact with controllers or processors in case of an audit.

6.3 QUESTIONS & CHALLENGES TO COOPERATION DUTIES STEMMING FROM THE APPLICATION OF NATIONAL ADMINISTRATIVE RULES ON THE PRIOR NOTIFICATION OF FORTHCOMING INVESTIGATIONS OR EXERCISE OF CORRECTIVE POWERS

The application of national administrative rules on the prior notification of forthcoming investigations or exercise of corrective powers may raise some questions and challenges to the smooth implementation of the OSS mechanism.

1. There is no convergence between the considered countries regarding the prior notification of forthcoming investigations or exercise of corrective powers. It is an obligation in some and not in others. This could lead to the invalidation of the procedure for breaching fundamental rights of the parties involved in the procedure. It also questions the nature of the procedure and the legal effects to be attached to this notification. It also questions the procedural qualification of the parties (are they parties to the procedure or are they only concerned by the procedure?).
2. If the controllers or processors are informed before the CSAs about this, it can also affect the good cooperation between SAs.
3. The challenge would be to reach an agreement on this kind of sensitive issue and on its practical aspects.

6.4 SUGGESTIONS AND POSSIBLE SOLUTIONS

The best option would be to assess the possibility of drafting Recommendations or Guidelines at European (EDPB) level, considering the limitations in national law, specifically regarding the prior notification of investigations or exercise of corrective powers in the context of an OSS procedure and the possibility to also inform the CSAs in advance about it.

7 NATIONAL ADMINISTRATIVE RULES IMPOSING STEPS OR DECISIONS PERTAINING TO THE OSS PROCEDURE

7.1 OVERVIEW OF NATIONAL ADMINISTRATIVE RULES IMPOSING STEPS OR DECISIONS PERTAINING TO THE OSS PROCEDURE

Table 6: Overview of NARs imposing steps or decisions pertaining to the OSS procedure

Member State/EEA State	NARs imposing steps or decisions pertaining to the OSS procedure	Origin of the rule (national legislation or SA's practice or interpretation)
Austria	<ul style="list-style-type: none"> ▪ No national provision on the procedure leading to an OSS decision except the right to be heard 	<ul style="list-style-type: none"> ▪ SA's practice
Belgium	<ul style="list-style-type: none"> ▪ Procedure leading to an OSS decision: <ol style="list-style-type: none"> 1. admissibility of the complaint by the front office 2. notification of this decision to the complainant 3. forward of this decision to the litigation chamber 4. referral of the complaint to the inspection service 5. investigation by the inspection service 6. conclusion of the investigation 7. referral to the litigation chamber 8. hearing of the parties 9. second hearing of the parties 10. revised draft decision 	<ul style="list-style-type: none"> ▪ SA's practice
Bulgaria	<ul style="list-style-type: none"> ▪ Procedure leading to an OSS decision: <ol style="list-style-type: none"> 1. opinion of the Legal Proceedings and Supervision Directorate 2. decision on the admissibility of the complaint 3. arrangements with other SAs 4. examination of the merits of the complaint at an open meeting 5. adoption of a decision (information of the complainant) 	<ul style="list-style-type: none"> ▪ National legislation: Art. 35-45 of the Personal Data Protection Act (PDPA)
Croatia	<ul style="list-style-type: none"> ▪ No information 	<ul style="list-style-type: none"> ▪ No information
Cyprus	<ul style="list-style-type: none"> ▪ Procedure leading to an OSS decision: <ol style="list-style-type: none"> 1. assessment of the complaint 2. preliminary investigation 3. notification of the DC/DP 4. examination of DC/DP response 5. DC/DP informed about a breach & corrective measures & right to be heard 6. draft decision submitted to CSA 7. final decision delivered to DC/DP 8. information of DS 	<ul style="list-style-type: none"> ▪ SA's practice
Czech Republic	<ul style="list-style-type: none"> ▪ Procedure leading to an OSS decision: <ol style="list-style-type: none"> 1. data breach notification/complaint/mass media report/... 2. preliminary assessment (inspection) 3. administrative proceeding at 1st stage <ul style="list-style-type: none"> ▪ appeal – administrative proceeding at second stage 	<ul style="list-style-type: none"> ▪ SA's practice
Denmark	<ul style="list-style-type: none"> ▪ No information 	<ul style="list-style-type: none"> ▪ No information
Estonia	<ul style="list-style-type: none"> ▪ No information 	<ul style="list-style-type: none"> ▪ SA's interpretation of the GDPR detailed schemes, the Administrative Procedure Act, the Law Enforcement Act and the Code of Misdemeanour

Member State/EEA State	NARs imposing steps or decisions pertaining to the OSS procedure	Origin of the rule (national legislation or SA's practice or interpretation)
		Procedure
Finland	<ul style="list-style-type: none"> ▪ Procedure leading to an OSS decision described by law 	<ul style="list-style-type: none"> ▪ National legislation: Arts. 19-48 of the DPA
France	<ul style="list-style-type: none"> ▪ Procedure leading to an OSS decision: <ol style="list-style-type: none"> 1. assessment of the claim / control / data breach 2. assessment of a cross-border transfer 3. case sent through IMI 4. determination of LSA / CSA / exclusive jurisdiction 5. if LSA/CSA, investigations, no deadlines for investigations but information of the victim and sharing of all information with CSA's before submitting a draft decision 6. when CSA, CNIL waits for the draft decision; when LSA, decision taken at the end of the investigation 7. for data breach, report sent to controller/processor (1 month to answer-15 days for rapporteur, etc.) 8. end of instruction and hearing with one-month notice 9. oral hearing and CSA's may participate 10. then decision by Restricted Committee 11. for warning, reprimand, orders, etc.), written procedure then decision by the Chair 12. the draft decisions are sent via IMI 13. the final decision is notified to the data controller/processor. Complainant is informed of the outcome 14. when CSA, Restricted Committee / Chair reviews the draft decision and transmission to LSA through standard IMI process. Once the FD is adopted by the LSA and sent to the controller or processor, the CNIL informs the complainant if the complaint was lodged at the CNIL 	<ul style="list-style-type: none"> ▪ SA's practice
Germany	<ul style="list-style-type: none"> ▪ Procedure leading to an OSS decision: <ol style="list-style-type: none"> 1. determination of the competent German SA 2. investigation 3. collecting evidence 4. hearing 5. authority acts at its discretion 	<ul style="list-style-type: none"> ▪ National legislation: <ol style="list-style-type: none"> 1. Art. 19 of the BDSG 2. Art. 24 of the VwVfG 3. Art. 26 of the VwVfG 4. Art. 28 of the VwVfG 5. Art. 40 of the VwVfG
Greece	<ul style="list-style-type: none"> ▪ Procedure leading to an OSS decision: <ol style="list-style-type: none"> 1. investigation 2. hearing 3. formal initial decision (a draft decision) 4. sharing of the draft decision with CSAs 5. final decision 	<ul style="list-style-type: none"> ▪ SA's practice
Hungary	<ul style="list-style-type: none"> ▪ The procedure leading to an OSS decision is the same as for national cases 	<ul style="list-style-type: none"> ▪ National legislation: Arts. 51/A-58 and Arts. of Act CXII
Iceland	<ul style="list-style-type: none"> ▪ No information 	<ul style="list-style-type: none"> ▪ No information
Ireland	<ul style="list-style-type: none"> ▪ Procedure leading to an OSS decision: <ol style="list-style-type: none"> 1. notice of commencement issued to the respondent who will be allocated a deadline for response 2. investigation 3. preparation of a draft investigation report 4. draft report is sent to the respondent who will be allocated a deadline for response 5. completion of the report 6. submission of the finalised report to the decision-maker (with a copy to the respondent) 	<ul style="list-style-type: none"> ▪ SA's practice

Member State/EEA State	NARs imposing steps or decisions pertaining to the OSS procedure	Origin of the rule (national legislation or SA's practice or interpretation)
	<ol style="list-style-type: none"> 7. the decision-maker will inform the respondent of the commencement of the decision-making process and the procedures that will be applied 8. separately, the decision-maker will assess the status of the respondent concerned, by reference to the concept of undertaking (as understood in the context of Article 101 TFEU) 9. the decision-maker will then write to the respondent to explain the concept of undertaking and the impact that it will have in proceedings in the event that he/she determines that an infringement has occurred and that an administrative fine should be imposed. The letter will include the relevant facts giving rise to any presumption of decisive influence and explain how the respondent can rebut that presumption. The letter will invite the respondent to discuss the matter with its parent company and to furnish any evidence in rebuttal of the presumption. 10. the decision-maker will prepare a draft decision, setting out his/her proposed views in relation to whether or not an infringement has occurred and the corrective action proposed (where applicable) 11. the draft is sent to the respondent and invites them to exercise their right to be heard within a specified timeframe 12. upon receipt of the respondent's submissions, the decision-maker will finalise the draft, taking into account the respondent's views 13. the draft will then be circulated via the IMI, to any concerned supervisory authorities 14. the respondent will be provided with a copy of the final draft decision, for their information 15. once the decision has exited the Article 60 process, it is adopted by the SA and is served on the respondent concerned. 16. where the decision imposes a corrective fine, the SA must apply to the Court to have the fine confirmed before it can be enforced 17. the required application cannot be made within the 28-day period following the service of the decision upon the respondent; this period of delay is to enable any of the parties concerned to file an appeal against the decision. 18. once the fine has been confirmed by the Court, it may be enforced against the respondent 	
Italy	<ul style="list-style-type: none"> ▪ Procedure leading to an OSS decision: <u>LSA receiving a complaint:</u> <ol style="list-style-type: none"> 1. admissibility & possibility of amicable settlement 2. investigation + information sharing with CSAs 3. notification of DC/DP if corrective measures 4. approval & further adoption of a draft decision <u>LSA receiving a complaint from a CSA:</u> <ol style="list-style-type: none"> 1. admissibility & possibility of amicable settlement 2. investigation + information sharing with CSAs 3. notification of DC/DP if corrective measures 4. approval & further adoption of a draft decision <u>CSA receiving a complaint:</u> 	<ul style="list-style-type: none"> ▪ SA's practice

Member State/EEA State	NARs imposing steps or decisions pertaining to the OSS procedure	Origin of the rule (national legislation or SA's practice or interpretation)
	<ol style="list-style-type: none"> 1. admissibility & possibility of amicable settlement 2. information sharing with CSAs 3. approval of the draft decision 	
Latvia	<ul style="list-style-type: none"> ▪ No information 	<ul style="list-style-type: none"> ▪ No information
Liechtenstein	<ul style="list-style-type: none"> ▪ Procedure leading to an OSS decision: the SA will decide on the steps to take including the possibility of amicable settlement 	<ul style="list-style-type: none"> ▪ SA's practice
Lithuania	<ul style="list-style-type: none"> ▪ Procedure leading to an OSS decision: <ol style="list-style-type: none"> 1. investigation/inspection (all the parties are heard in written) 2. draft decision making [in case of fining (Art. 34 of LGPD)]: <ul style="list-style-type: none"> ➢ proposal to fine that is sent to the suspect ➢ hearing ➢ draft decision making 3. draft decision sent to CSAs 4. final decision approval 	<ul style="list-style-type: none"> ▪ SA's practice
Luxembourg	<ul style="list-style-type: none"> ▪ Procedure leading to an OSS decision: <ol style="list-style-type: none"> 1. search for amicable settlement 2. investigation 3. statement of objections 4. observations from DC/DP 5. decision on the investigation by the "<i>formation restreinte</i>" 6. in case of an OSS, draft decision sent to other SAs via IMI 7. final decision 	<ul style="list-style-type: none"> ▪ National legislation: Arts. 32, 37-41 of 2018 Act
Malta	<ul style="list-style-type: none"> ▪ First assessment of admissibility and determination of the course of the investigation 	<ul style="list-style-type: none"> ▪ SA's practice
Netherlands	<ul style="list-style-type: none"> ▪ Procedure leading to an OSS decision: <ol style="list-style-type: none"> 1. reception and assessment of complaint and its cross-border nature 2. closing of complaint / search of an alternative solution / start an investigation 3. advise on the appropriate measure including corrective measures 4. hearing (after sending the report of findings and the intention to impose corrective powers: cf. title 5.4.2 of the GALA) 5. draft decision shared with other SAs after the evaluation of the findings and the advice on the measure to impose and after hearing the parties but before a formal decision is taken and communicated to parties 	<ul style="list-style-type: none"> ▪ SA's practice
Norway	<ul style="list-style-type: none"> ▪ Procedure leading to an OSS decision: <ol style="list-style-type: none"> 1. fact finding 2. notification of the intent to make a decision 3. adoption of a decision (draft decision should be issued before the adoption of the decision) 	<ul style="list-style-type: none"> ▪ SA's practice except for the adoption of the decision (cf. Arts. 13-18 of the PAA)
Poland	<ul style="list-style-type: none"> ▪ Procedure leading to an OSS decision: <ol style="list-style-type: none"> 1. initiation of administrative proceedings 2. investigation 3. decision RE (1) initiation of administrative proceedings ▪ For cross-border cases the draft decision is submitted to other SAs after its notification to complainant and DC/DP to allow them to express their views on the evidence and materials collected and claims made (Art. 	<p>SA's practice except on the initiation of the administrative proceedings (cf. Arts. 61-66, 77-81, 104-105 of the CAP)</p>

Member State/EEA State	NARs imposing steps or decisions pertaining to the OSS procedure	Origin of the rule (national legislation or SA's practice or interpretation)
	<p>10(1) of the CAP)</p> <ul style="list-style-type: none"> ▪ No mention to consult SAs in the national data protection act 	
Portugal	<ul style="list-style-type: none"> ▪ Procedure leading to an OSS decision (there is no specific provisions): <ol style="list-style-type: none"> 1. admissibility of the complaint 2. findings procedure 3. investigations 4. draft decision 5. shared with CSAs 6. draft decision sent to DCP/DP so as to give the right to be heard 7. final decision shared with CSAs to ascertain whether they agree with the final decision (concrete sanction to be imposed or not to impose a sanction at all) 	<ul style="list-style-type: none"> ▪ SA's practice
Romania	<ul style="list-style-type: none"> ▪ No information 	<ul style="list-style-type: none"> ▪ No information
Slovakia	<ul style="list-style-type: none"> ▪ Procedure leading to an OSS decision: <ol style="list-style-type: none"> 1. Complaint/petition/proceeding ex officio 2. Informing parties 3. Proceeding – collecting pieces of evidence for decision and their evaluation 4. Informing parties of the proceeding about evidence for decision before issuing a decision according to Art. 33(2) of the APA 5. Decision: during preliminary vetting the SA assesses if the case is cross border or not. If the case is cross border the SA applies Art. 99(4) of APDP 	<ul style="list-style-type: none"> ▪ SA's practice
Slovenia	<ul style="list-style-type: none"> ▪ The steps leading to an OSS decision should be interpreted in light of the GDPR and the national administrative rules: <u>INSPECTION procedure:</u> (Chapter VI of the Inspection Act): <ul style="list-style-type: none"> - Receiving a petition (complaint) or initiating the procedure ex officio - Performing specific investigative activities prior to the issuing of an inspection decision - Issuing a decision <u>ADMINISTRATIVE procedure:</u> <ul style="list-style-type: none"> - Receiving a petition (complaint against the refusal or rejection of DC to grant access or portability rights) - Establishing facts and circumstances - Adopting a decision 	<ul style="list-style-type: none"> ▪ SA's practice
Spain	<ul style="list-style-type: none"> ▪ Procedure leading to an OSS decision: <ol style="list-style-type: none"> 1. determine the national or cross-border nature of the data processing 2. admissibility of the complaint 3. preliminary investigation actions 4. decision to initiate the procedure to fine 5. provisional measures 	<ul style="list-style-type: none"> ▪ SA's practice
Sweden	<ul style="list-style-type: none"> ▪ No information 	<ul style="list-style-type: none"> ▪ No information

7.2 GENERAL TRENDS OBSERVED IN RELATION TO THE NATIONAL ADMINISTRATIVE RULES IMPOSING STEPS OR DECISIONS PERTAINING FOR THE OSS PROCEDURE

In most countries, there are no legal provisions setting up a specific procedure or specific steps or

decisions regarding the OSS mechanism. Furthermore, rules on when the CSAs should be consulted vary in the countries concerned.

As to the **specific steps** leading to an OSS decision, the following conclusions can be drawn:

1. In eleven countries, the procedure leading to an OSS decision is based upon SA's practice (or SA's interpretation of the procedure):
2. Belgium, Cyprus, Czech Republic, Estonia, France, Greece, Italy, Liechtenstein, Lithuania, Malta and Spain.
3. In four countries, the procedure leading to an OSS decision is based upon national data protection laws:
4. Bulgaria, Finland, Hungary and Luxembourg.
5. In four countries, the procedure leading to an OSS decision is based upon national data protection laws combined with national general administrative laws:
6. Germany, the Netherlands, Slovakia and Slovenia.
7. In three countries, the procedure leading to an OSS decision is based on national general administrative laws:
8. Estonia, Norway and Poland.
9. For two countries, we received the information that there are no specific legal provisions on the procedure leading to an OSS decision:
10. Austria and Portugal.

Regarding the **practical arrangements** between SAs in the context of an OSS procedure:

1. Informal arrangements between SAs:

In Bulgaria, arrangements with other SAs are made after deciding upon a complaint's admissibility and before examining the complaint's merits.

2. Discretionary decision of the SA

In Liechtenstein and Malta, the SAs will decide on the procedure (including the possibility of an amicable settlement, in Liechtenstein).

3. No consultation with other SAs before sharing draft decisions:

In Cyprus, there is no consultation with CSAs before sharing the draft decision.

4. Consultation or at least information of other SAs before the adoption of the draft decision

In France, the case is sent through IMI as soon as the cross-border processing is identified. Information is then shared with CSA before submitting a draft decision. CSAs may participate to the oral hearing of the parties.

In Italy, the SA shares information with other SAs after assessing the admissibility of the complaint and the possibility to reach an amicable settlement.

5. Sharing of the draft decision with the other SAs after its adoption

In Greece, the draft decision is shared with CSAs.

In Lithuania, the draft decision is sent to CSAs.

In Luxembourg, the draft decision is sent to the other SAs via IMI.

In the Netherlands, the draft decision is shared with other SAs after the assessment of the findings and the advice on the measure to be imposed and after hearing the parties, but this is before a formal decision is taken and communicated to the parties.

In Poland, the draft decision is shared with the other SAs after its notification to the complainant, controllers and processors to allow them to express their views on the evidence and materials collected and on the claims made against them. There is no formal indication on whether there is an obligation to consult with the other SAs.

In Portugal, the draft decision is shared with the CSAs. The final decision is shared with CSAs to ascertain whether they agree with the final decision.

7.3 QUESTIONS & CHALLENGES TO COOPERATION DUTIES STEMMING FROM THE APPLICATION OF NATIONAL ADMINISTRATIVE RULES IMPOSING STEPS OR DECISIONS TO THE OSS PROCEDURE

The procedure applied when handling an OSS case varies from country to country. There is no convergence nor harmonisation on any aspects of the OSS mechanism whatsoever. In some cases it could lead to a chaotic situation and a severe weakening of data protection in Europe regarding cross-border processing. It might also result in the breaching of the law's predictability, which is a fundamental right for controllers and processors and a fundamental legal principle in most of the Member States and in the European Union.

7.4 SUGGESTIONS AND POSSIBLE SOLUTIONS

The best solution seems to be to assess the possibility of drafting comprehensive Recommendations or Guidelines at the European (EDPB) level on the way to conduct an OSS procedure from the start, meaning starting with the identification of cross-border processing, then with the investigation phase, the information and consultation of SAs, the notification and hearing of the parties, the decision-making procedure, and the legal effects of the decisions adopted during the OSS procedure – based upon SAs' practices and legal constraints.

8 CONCLUSION

It appears that all SAs have to comply with national general administrative rules when carrying out their cooperation duties in the context of an OSS procedure. Those national general administrative rules might be applicable to all kinds of administrative proceedings. They are not necessarily specific or adapted to the OSS procedure. This does not imply in itself that they are not compatible with the OSS procedure. In addition to those national general administrative rules, a large majority of countries have passed some specific rules regarding how to organise their cooperation duties in the context of an OSS procedure. As a general rule, these specific rules only partially cover aspects of the OSS mechanism. A minority of countries have passed more comprehensive national administrative rules regarding the OSS mechanism. Some SAs have expressly indicated that national administrative rules should be interpreted and applied in light of the rules laid down by the GDPR. There are other general trends between the national administrative rules applicable to cooperation duties. In nearly all the countries, time limits or deadlines are suspended or may be extended in case of an OSS procedure.

In a large majority of countries, complaints must comply with requirements laid down by national administrative rules (e.g. formal requirements including the identification of the complainant, prior exercise of data subject's rights, damages, substantiation of the complaint, language requirements or deadlines). Failing to meet these requirements might lead to the (early) dismissal of the complaint - but not always.

A vast majority of countries recognise the controllers' and processors' fundamental right to be heard - especially in view of imposing an administrative fine or exercising corrective powers. They also recognise, to some extent, the obligation to provide information on the proceedings to the complainant and/or the controller or processor. However, there is no unanimity on the moment when the hearing or information should occur.

A substantial number of countries recognise the possibility of amicable settlements between the complainant and the controller or processor.

There is usually an obligation to inform the parties on the opening of the case and of the procedure, on the investigation and its outcomes, on the exercise of corrective powers and on the decisions taken (including draft decisions and final decisions).

There are no harmonised rules as to whether a draft decision or any other decision is needed when an investigation is halted mid-procedure or when the complaint is withdrawn by the complainant or is deemed withdrawn (e.g. the controller or processor have implemented the corrective measures imposed by the SA) and whether and when this information should be shared with the other SAs. The same applies for amicable settlements.

Some SAs have stressed the lack of legal provisions to conduct joint operations. However, in some countries, this issue is addressed by some national administrative rules. It must be stressed that it appears that sometimes, a SA may not rely on the investigation performed by another SA to ground its decisions for legal reasons (in other words the outcome of the investigation might not be legally admissible in another country).

The OSS procedure also raises the difficult question of the enforcement of the decision passed by one SA in another country.

In view of the findings of the study, a first short-term solution could be to assess the possibility of issuing Recommendations or Guidelines for each of the six topics covered by the analysis, in order to maximise the possibility of solving this at EDPB level. In the long run, a more global solution could consist of the drafting of comprehensive Recommendations or Guidelines at European level (EDPB) on the way to conduct an OSS procedure from the start, meaning starting with the identification of cross-border processing, then with the investigation phase, the information and consultation of the SAs, the notification and hearing of the parties, the decision-making procedure, and the legal effects of the decisions adopted during the OSS procedure. It would be important to assess the limitations of a harmonised solution, due to divergences, not only of SAs practices, but also of national laws. If the work

of the EDPB faces this limitation, it would be important to make a legal assessment of the legal possibility to call for more harmonised rules on this topic.

ANNEX 1 – QUESTIONNAIRE FOR THE NATIONAL SUPERVISORY AUTHORITIES

QUESTIONNAIRE – General information about national rules impacting the cooperation duties

Questions related to the main data protection law

1. What is the main piece(s) of legislation that have been adopted by your Member State to adapt national legislation to the GDPR – e.g. national legal provisions adopted or amended to adapt the national data protection law to the GDPR, for the enforcement of the GDPR or applicable for the enforcement of the GDPR duties in the matter of cooperation?

Please provide reference to the main piece(s) of national legislation that have been enacted and/or amended to adapt national data protection law to the GDPR, for the enforcement of the GDPR or applicable for the enforcement of the GDPR duties in the matter of cooperation. Please provide us a copy of such relevant law(s) as well as an English translation if available.

2. Which provisions of this law(s) your organisation has to comply with while fulfilling cooperation duties under the one-stop-shop (OSS) mechanism for the EEA States, as set out in Articles 56 and 60 of the GDPR?

Please quote the main provisions of this legislation, applicable to EEA OSS mechanism duties under the GDPR.

3. Which provisions of this law(s) your organisation has to comply with while carrying out preparatory acts which could lead to the one-stop-shop mechanism, as set out in Articles 56 and 60 of the GDPR (i.e. while carrying out investigations or handling complaints)?

Please quote the main provisions of this legislation, applicable to the acts which could lead to the one-stop-shop mechanism (in the context of investigations, handling of complaints, etc.).

Questions related to other laws setting out administrative rules

4. Apart from this legal act(s), what are the other pieces of legislation that you are obliged to apply while performing your tasks BEFORE and DURING the one-stop-shop mechanism in the GDPR?

Please provide reference to these other legal acts. Please provide us a copy of the relevant sections as well as an English translation if available.

Questions related to the application of national administrative rules to GDPR cooperation and the one-stop-shop mechanism

5. Please describe the different steps of your procedure provided by your national law(s) leading to any OSS decision(s).

Please provide reference to these national legal act(s). Please provide us a copy of the relevant sections as well as an English translation if available. If exist, please also provide to us any scheme of such procedure / different national steps that lead to any OSS decision(s).

6. In particular, please describe **what are the provisions of national law(s)** (either data protection, administrative or other) that you are obliged to apply with respect to the following aspects?

In the boxes below, please provide a short explanation as well as a reference to the legislation setting out the relevant administrative rules. Please also quote (in full) from these laws the relevant provisions which apply to the different aspects. Please provide us a copy of the relevant sections as well as an English translation if available. Do not hesitate to provide short explanations. If there is no specific legal duty but the matter is left to your appreciation, please indicate it clearly.

- **Timing/deadline** within which a complaint or investigation should be handled:

- **Grounds** (other than the ground provided in Article 57(4) of the GDPR referring to manifestly unfounded or excessive requests) for deciding on the admissibility of complaints received from individuals:

- Obligation for your organisation to notify the data controller/processor of a **forthcoming investigation** or the **forthcoming exercise of corrective powers**. If such prior notification obligation exists under the national law, please specify in the box below, if your national law specify whether these should take place prior to the consultation of the other supervisory authorities (SAs) on the draft decision:

- **The moment in the procedure** when the **draft decision** (Article 60.3 GDPR) has to be shared with the other concerned supervisory authorities. Please also describe at which step of the procedure provided by your national law this should happen:

- **The moment(s)** during this procedure when the **duty to hear the parties concerned will apply**. Please specify if this should, according to your national legal framework, take place before consulting the other concerned SAs:

- Any other provisions regulating your organisation's investigative powers which might have an implication on the fulfilment of cooperation duties by your organisation:

ANNEX 2 – LIST OF STAKEHOLDERS CONTACTED

Supervisory authorities of the 27 EU Member States of the European Union and the 3 EFTA-EEA States have been contacted with the help of the EDPB Secretariat.

Table 7: List of competent SAs

Member State	Competent SA
Austria	<i>Österreichische Datenschutzbehörde</i>
Belgium	<i>Autorité de la protection des données/Gegevensbeschermingsautoriteit (APD/GBA)</i>
Bulgaria	Commission for Personal Data Protection
Croatia	Croatian Personal Data Protection Agency
Cyprus	Commissioner for Personal Data Protection
Czech Republic	Office for Personal Data Protection
Denmark	<i>Datatilsynet</i>
Estonia	Estonian Data Protection Inspectorate - <i>Andmekaitse Inspeksioon</i>
Finland	Office of the Data Protection Ombudsman
France	<i>Commission Nationale de l'Informatique et des Libertés (CNIL)</i>
Germany	<i>Die Bundesbeauftragte für den Datenschutz und die Informationsfreiheit and several Landesdatenschutzbeauftragte</i>
Greece	Hellenic Data Protection Authority
Hungary	Hungarian National Authority for Data Protection and Freedom of Information
Iceland	The Data Processing Authority - <i>Persónuvernd</i>
Ireland	Data Protection Commission (DPC)
Italy	<i>Garante per la protezione dei dati personali</i>
Latvia	Data State Inspectorate
Liechtenstein	<i>Datenschutzstelle</i>
Lithuania	State Data Protection Inspectorate
Luxembourg	<i>Commission Nationale pour la Protection des Données (CNPD)</i>
Malta	Office of the Information and Data Protection Commissioner
Netherlands	<i>Autoriteit Persoonsgegevens</i>
Norway	Norwegian Data Protection Authority - <i>Datatilsynet</i>
Poland	Personal Data Protection Office - <i>Urząd Ochrony Danych Osobowych</i>
Portugal	<i>Comissão Nacional de Protecção de Dados (CNPD)</i>
Romania	The National Supervisory Authority for Personal Data Processing
Slovakia	Office for Personal Data Protection of the Slovak Republic
Slovenia	Information Commissioner of the Republic of Slovenia
Spain	<i>Agencia Española de Protección de Datos (AEPD)</i>
Sweden	<i>Datainspektionen</i>

ANNEX 3 – SOURCES OF INFORMATION

Legal documents at EU level

Charter of Fundamental Rights of the European Union, OJ C 326, 26.10.2012, p. 391–407 and OJ C 326, 26.10.2012, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:12012P/TXT>.

Directive (EU) 2019/1 of the European Parliament and of the Council of 11 December 2018 to empower the competition authorities of the Member States to be more effective enforcers and to ensure the proper functioning of the internal market.

Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation), OJ L 119, 4.5.2016, p. 1–88.

Other literature at EU level

Article 29 Data Protection Working Party, Guidelines for identifying a controller or processor’s lead supervisory authority (WP 244 rev.01), adopted on 13 December 2016, last revised and adopted on 5 April 2017.

Cooperation and consistency? Nine months in, the EDPB reflects on GDPR, 5 April 2019, accessible at: <https://www.technologylawdispatch.com/2019/04/privacy-data-protection/cooperation-and-consistency-nine-months-in-the-edpb-reflects-on-gdpr/>.

Council of the EU: Communication from the Commission to the European Parliament pursuant to Article 294(6) of the Treaty on the Functioning of the European Union concerning the position of the Council on the adoption of a Regulation of the European Parliament and of the Council on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation) and repealing Directive 95/46/EC, COM(2016) 214 final, brussels, 12 April 2016.

EDPB: Cross-border cooperation and consistency procedures – State of play, 20 July 2018, accessible at: https://edpb.europa.eu/news/news/2018/cross-border-cooperation-and-consistency-procedures-state-play_en.

EDPB: European Data Protection Board – Second plenary meeting: ICANN, PSD2, Privacy Shield, 5 July 2018, accessible at: https://edpb.europa.eu/news/news/2018/european-data-protection-board-second-plenary-meeting-icann-psd2-privacy-shield_en.

EDPB: First overview on the implementation of the GDPR and the roles and means of the national supervisory authorities.

EDPB: Graphs demo, 22 May 2019, accessible at: https://edpb.europa.eu/graphs-demo_en.

EDPB: Opinion 8/2019 on the competence of a supervisory authority in case of a change in circumstances relating to the main or single establishment, 9 July 2019.

EDPB: The CNIL’s restricted committee imposes a financial penalty of 50 Million euros against GOOGLE LLC, 21 January 2019, accessible at: https://edpb.europa.eu/news/national-news/2019/cnils-restricted-committee-imposes-financial-penalty-50-million-euros_sl.

European Union Agency for Fundamental Rights and Council of Europe, 2018, Handbook on European data protection law, 2018 edition, Publications Office of the European Union, Luxembourg.

Guidelines for identifying a controller or processor’s lead supervisory authority, wp244rev.01.

How Are European Supervisory Authorities Exercising Cooperation and How Are European Supervisory Authorities Exercising Cooperation and Consistency In Practice?, 2 September 2019, accessible at: <https://www.globalprivacyblog.com/gdpr/how-are-european-supervisory-authorities->

exercising-cooperation-and-consistency-in-practice/.

Recap: EDPB’s first-year review of GDPR, 21 March 2019, accessible at: <https://iapp.org/news/a/recap-edpbs-first-year-review-of-the-gdpr/>.

What happened to the one-stop shop?, 21 February 2019, accessible at: https://wp.nyu.edu/compliance_enforcement/2019/04/15/gdpr-what-happened-to-one-stop-shop-enforcement/.

Member States’ national data protection laws passed to implement the GDPR and national administrative rules applicable to the OSS mechanism

Table 8: Overview of national laws

Member State	National data protection laws	NARs applicable to the OSS mechanism
Austria	<ul style="list-style-type: none"> Federal Act concerning the Protection of Personal Data (DSG), accessible at: https://www.ris.bka.gv.at/Dokumente/Erv/ERV_1999_1_165/ERV_1999_1_165.html 	<ul style="list-style-type: none"> General administrative Procedure Act (GAPA)
Belgium	<ul style="list-style-type: none"> 30 July 2018 - Act on the protection of natural persons with regard to the processing of personal data (2018 Act) 3 December 2017 - Act establishing the Data Protection Authority (2017 Act) 	<ul style="list-style-type: none"> General Principles of Good Administration
Bulgaria	<ul style="list-style-type: none"> Personal Data Protection Act (PDPA), accessible at: https://www.cdpd.bg/en/index.php?p=element&aid=1194 Rules on the activity of the Commission for Personal Data Protection and its administration, accessible at: https://www.cdpd.bg/en/index.php?p=element&aid=36 	<ul style="list-style-type: none"> Administrative Procedural Code (APC) Administrative Infringements and Sanctions Act
Croatia	<ul style="list-style-type: none"> Law on Implementation of the General Data Protection Regulation (OG 42/18) (LoLoGDPR) 	<ul style="list-style-type: none"> Law on Administrative Procedure
Cyprus	<ul style="list-style-type: none"> Law 125(I)/2018 for the Protection of Natural Persons with regard to the Processing of Personal Data and for the Free Movement of such Data, accessible at: http://www.dataprotection.gov.cy/dataprotection/dataprotection.nsf/2B53605103DCE4A4C225826300362211/\$file/Law%20125(I)%20of%202018%20ENG%20final.pdf 	<ul style="list-style-type: none"> General Principles of Administrative Law
Czech Republic	<ul style="list-style-type: none"> Act No. 110/2019 Coll., on personal data processing of 12 March 2019, accessible at: https://www.uoou.cz/en/vismo/zobraz_dok.asp?id_org=200156&id_ktg=1420&archiv=0&p1=1105 Act No. 111/2019 Coll 	<ul style="list-style-type: none"> Administrative Procedure Code (APC) Inspection Act (No 255/2012) Liability for Administrative Delicts and Related Proceedings Act (No 250/2016)
Denmark	<ul style="list-style-type: none"> Danish Data Protection Act (2018), accessible at: https://www.datatilsynet.dk/media/6894/danish-data-protection-act.pdf 	<ul style="list-style-type: none"> Danish Public Administration Act Danish Access to Public Administration Files Act
Estonia	<ul style="list-style-type: none"> Personal Data Protection Act of 12 December 2018 (PDPA) 	<ul style="list-style-type: none"> Administrative Procedure Act Law Enforcement Act Code of Civil Procedure Code of Misdemeanour Procedure
Finland	<ul style="list-style-type: none"> Data Protection Act 2018 (DPA), accessible at: https://www.finlex.fi/en/laki/kaannokset/2018/en20181050.pdf 	<ul style="list-style-type: none"> Administrative Procedure Act (434/2003)
France	<ul style="list-style-type: none"> Act No 78-17 of 6 January 1978 on Informatics, Files and Liberties (LIL Act), accessible at: 	<ul style="list-style-type: none"> Constitution, Art. 2 Code of relationships

Member State	National data protection laws	NARs applicable to the OSS mechanism
	<p>https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000000886460</p> <ul style="list-style-type: none"> Decree No 2019-536 of 29 May 2019 implementing act of 6 January 1978, accessible at: https://www.legifrance.gouv.fr/eli/decret/2019/5/29/JUSC1911425D/jo/texte (Decree) <i>Règlement intérieur de la CNIL</i> (CNIL RoI), accessible at: https://www.cnil.fr/fr/reglement-interieur-de-la-cnil 	<ul style="list-style-type: none"> between the public and the administration, Art. L211-2 Law on Administrative Procedure OG 47/09, Art. 101
Germany	<ul style="list-style-type: none"> Federal Data Protection Act (<i>Bundesdatenschutzgesetz</i> - BDSG), accessible at: https://www.gesetze-im-internet.de/englisch_bds/englisch_bds.pdf Baden-Wuerttemberg State Data Protection Act Lower Saxony Data Protection Act Act transposing Directive (EU) 2016/680 (Saxony-Anhalt Data Protection Directive Implementation Act – DSUG LSA) Of 2 August 2019 <i>Thüringer Datenschutzgesetz</i> 	<ul style="list-style-type: none"> Federal Administrative Procedures Act (<i>Verwaltungsverfahrensgesetz</i> - VwVfG) Act on Regulatory Offences Federal Code of Criminal Procedure <i>Thüringer Verwaltungsverfahrensgesetz</i> <i>Thüringer Verwaltungszustellungs- und Vollstreckungsgesetz</i> Saxony-Anhalt Administrative Procedure Act (VwVfG LSA) Of 18 November 2005
Greece	<ul style="list-style-type: none"> Law 4624/2019, aiming both at the enforcement of the GDPR and the enforcement of the GDPR duties in the matter of cooperation 	<ul style="list-style-type: none"> Code of Administrative Procedure (Law 2690/99)
Hungary	<ul style="list-style-type: none"> Act CXII of 2011 on the right to informational self-determination and on the freedom of information Act XIII of 2018 designating the Hungarian Data Protection and Freedom of Information Agency as Hungary's GDPR supervisory authority Act XLVII of 1997 on the processing and protection of personal data concerning health (the 'Health Data Processing Act') 	<ul style="list-style-type: none"> General Procedural Rules Act CL of 2016 of the Code of General Administrative Procedure (CGAP)
Iceland	<ul style="list-style-type: none"> Act No. 90/2018 on Data Protection and the Processing of Personal Data of 27 June 2018 	<ul style="list-style-type: none"> Administrative Procedures Act (APA)
Ireland	<ul style="list-style-type: none"> Data Protection Act 2018 and Regulations 2018 (S.I. No. 314 of 2018) (S.I. No. 188 of 2019) Data Sharing and Governance Act 2019 S.I. 222/2019 – Circuit Court Rules (Data Protection Actions) 2019 together with Orders 60 and 64B of the Circuit Court Rules 	<ul style="list-style-type: none"> Bunreacht na hÉireann (the Constitution of Ireland) Irish Administrative Law Case law of England and Wales European Convention on Human Rights Act, 2003 Interpretation Act, 2005 Administrative Procedure Act No 37/1993 (Art. 10 on investigations)
Italy	<ul style="list-style-type: none"> Italian Data Protection Code (Containing provisions to adapt the national legislation to Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and 	<ul style="list-style-type: none"> Law No 689/1981 on the application of administrative fines Law No 241/1990 on the Administrative Procedure

Member State	National data protection laws	NARs applicable to the OSS mechanism
	<ul style="list-style-type: none"> repealing Directive 95/46/EC) (IDPC) ▪ Regulation on internal procedures with an external relevance intended to carry out the tasks and exercise the powers conferred on the <i>Garante per la protezione dei dati personali</i>, and with a view to the adoption of corrective measures and administrative fines (Section 142(5), Section 154 (1)(b) and (3), Section 156 (3)(a) and Section 166(9), Legislative Decree No 196 of 30 June 2003 (“Italian Data Protection Code”), as amended by Legislative Decree No 101 of 10 August 2018) ▪ “Rules of Procedure No 1/2019” by the Italian Data Protection Authority (RoP) 	<ul style="list-style-type: none"> Act ▪ Italian FOIA Law: Legislative decree No 33/2013 as amended by legislative decree No 97/2016 ▪ Legislative Decree No 196/2003
Latvia	<ul style="list-style-type: none"> ▪ Personal Data Processing Law, 132 (6218), 4 July 2018 (PDP Law) 	<ul style="list-style-type: none"> ▪ Administrative Procedure Law (APL) ▪ Administrative Violations Code (cf. Division IV on Administrative Infringement Proceedings) ▪ Law on Submissions
Liechtenstein	<ul style="list-style-type: none"> ▪ Data Protection Act of 4 October 2018 (DPA) ▪ Data Protection Ordinance of 4 October 2018 	<ul style="list-style-type: none"> ▪ Law on Administrative Procedure (LVG)
Lithuania	<ul style="list-style-type: none"> ▪ Law on Legal Protection of Personal Data (LGPD), accessible at: https://www.e-tar.lt/portal/legalAct.html?documentId=43cddd8084cc11e8ae2bfd1913d66d57 	<ul style="list-style-type: none"> ▪ Law on Public Administration ▪ Administrative Offences Code
Luxembourg	<ul style="list-style-type: none"> ▪ Act of 1 August 2018 on the organisation of the National Data Protection Commission, implementing Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation), amending the Labour Code and the amended Act of 25 March 2015 stipulating the rules of remuneration and the terms and conditions for the promotion of State civil servants (2018 Act) ▪ Regulation of the National Data Protection Commission on the investigation procedure, Adopted by Decision No 4AD/2020 of 22.01.2020, pursuant to Art. 40 of the Act of 1 August 2018 on the organisation of the National Data Protection Commission and the general data protection framework (Regulation) ▪ Rules of Procedure of the National Data Protection Commission Adopted by Decision No 3/2020 of 22.01.2020, pursuant to Art. 32 (1) and 33 of the Act of 1 August 2018 on the organisation of the National Data Protection Commission and the general data protection framework (Act of 1 August 2018) 	<ul style="list-style-type: none"> ▪ Law of 1 December 1978 governing the non-contentious administrative procedure ▪ Loi du 7 novembre 1996 portant organisation des juridictions de l'ordre administratif ▪ Grand-Ducal Regulation of 8 June 1979 on the procedure to be followed by the State or municipal administrative authorities
Malta	<ul style="list-style-type: none"> ▪ Data Protection Act, CAP 586, accessible at: http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lom&itemid=12839&l=1 ▪ Subsidiary legislation 586.08 Data Protection (Processing of Personal Data by Competent Authorities for the Purposes of the Prevention, Investigation, Detection or Prosecution of Criminal Offences or the Execution of Criminal Penalties), accessible at: https://idpc.org.mt/en/Legislation/SL%20586.08.pdf ▪ Subsidiary legislation 586.09 Restriction of the Data Protection (Obligations and Rights), accessible at: https://idpc.org.mt/en/Legislation/SL%20586.09.pdf ▪ Subsidiary legislation 586.10 Processing of Data concerning Health for Insurance Purposes, accessible at: 	

Member State	National data protection laws	NARs applicable to the OSS mechanism
	<p>https://idpc.org.mt/en/Legislation/SL%20586.10.pdf</p> <ul style="list-style-type: none"> Subsidiary legislation 586.11 Processing of Child's Personal Data in Relation to the Offer of Information Society Services, accessible at: https://idpc.org.mt/en/Legislation/SL%20586.11.pdf 	
Netherlands	<ul style="list-style-type: none"> Act of 16 May 2018 containing rules for the implementation of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ 2016, L 119) (General Data Protection Regulation Implementation Act) (2018 Act) Adaptation Act General Data Protection Regulation <i>Uitvoeringswet Algemene verordening gegevensbescherming</i> <i>Beleidsregels openbaarmaking door de Autoriteit Persoonsgegevens</i> 	<ul style="list-style-type: none"> General Administrative Law Act (GALA) Framework Act on Independent Administrative Authorities <i>Beleidsregels Prioritering klachtenonderzoek</i>
Norway	<ul style="list-style-type: none"> <i>Lov 15. juni 2018 nr. 38 om behandling av personopplysninger</i> (Personal Data Act), accessible at: https://lovdata.no/dokument/NL/lov/2018-06-15-38 	<ul style="list-style-type: none"> Public Administration Act (PAA) Freedom of Information Act
Poland	<ul style="list-style-type: none"> Act of 10 May 2018 on the Protection of Personal Data, accessible at: https://uodo.gov.pl/en/file/307 Act of 21 February 2019 amending certain acts in connection with ensuring the application of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of individuals with regard to the processing of personal data and on the free movement of such data and repealing Directive 95/46/EC (General Data Protection Regulation) 	<ul style="list-style-type: none"> Code of Administrative Procedure (CAP) 2002 Act on Proceedings before Administrative Courts 2018 Law on Entrepreneurs (cf. Art. 55)
Portugal	<ul style="list-style-type: none"> Law 58/2019, of 8th of August DELIBERAÇÃO/2019/494, adopted at the plenary meeting of <i>Comissão Nacional de Proteção de Dados</i> (CNPd) on 3 September 2019 	<ul style="list-style-type: none"> National Organisation Law (Law 43/2001) National Fining Regime
Romania	<ul style="list-style-type: none"> The law on implementing measures of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) The Law amending and supplementing Law no. 102/2005 on the establishment, organisation and functioning of the National Supervisory Authority for Personal Data Processing, and repealing Law No. 677/2001 on the protection of individuals with regard to the processing of personal data and on the free movement of such data 	
Slovakia	<ul style="list-style-type: none"> Act No. 18/2018 on Personal Data Protection and amending and supplementing certain Acts (APDP), accessible at: https://dataprotection.gov.sk/uouu/en/content/national-legislation 	<ul style="list-style-type: none"> Administrative Proceeding Act No 71/1967 (APA)
Slovenia	<ul style="list-style-type: none"> Personal Data Protection Act (not adapted to GDPR) 	<ul style="list-style-type: none"> Information Commissioner Act Inspection Act General Administrative Procedure Act Minor Offences Act Decree on Administrative Operations

Member State	National data protection laws	NARs applicable to the OSS mechanism
Spain	<ul style="list-style-type: none"> Organic Law 3/2018 of 5 December 2018 (OL 3/2018) 	<ul style="list-style-type: none"> General Rules on Administrative Procedures (on a supplementary basis)
Sweden	<ul style="list-style-type: none"> Data Protection Act (SFS 2018:218 <i>Lag med kompletterande bestämmelser till EU:s dataskyddsförordning</i>), accessible at: https://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/lag-2018218-med-kompletterande-bestammelser_sfs-2018-218 The Swedish Data Protection Regulation (2018:219), accessible at: https://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/forordning-2018219-med-kompletterande_sfs-2018-219 Ordinance (2007:975) on Instructions for the Swedish Data Protection Authority 	<ul style="list-style-type: none"> General Administration Laws Normal Procedural Rules Supervision Policy

Other sources of information (questionnaires)

Report commissioned by the European Commission on the evaluation of the GDPR (only the part concerning Chapter VII).

Results from the EDPB questionnaire regarding “Amicable settlements”.

Results from the EDPB questionnaire regarding the investigation of complaints (only the part on the sharing of information before submitting a draft decision).

ANNEX 4 - ACRONYMS AND ABBREVIATIONS

The table hereunder provides a list of acronyms and abbreviations used throughout this study.

Table 9: Acronyms and abbreviations

Acronym and abbreviation	Explanation
AEPD	<i>Agencia Española de Protección de Datos</i> (Spanish SA)
APA	Icelandic Administrative Procedures Act Slovakian Administrative Proceeding Act
APC	Bulgarian Administrative Procedural Code Czech Administrative Procedure Code
APD/GBA	<i>Autorité de la protection des données/Gegevensbeschermingsautoriteit</i> (Belgium SA)
APDP	Slovakian Act No. 18/2018 on Personal Data Protection and amending and supplementing certain Acts
APL	Latvian Administrative Procedure Law
BDSG	German Federal Data Protection Act - <i>Bundesdatenschutzgesetz</i>
CAP	Polish Code of Administrative Procedure
CGAP	Hungarian Act CL of 2016 of the Code of General Administrative Procedure
CNIL	<i>Commission Nationale de l'Informatique et des Libertés</i> (French SA)
CNIL Rol	French <i>Règlement intérieur de la CNIL</i>
CNPD	<i>Commission Nationale pour la Protection des Données</i> (Luxembourg SA) <i>Comissão Nacional de Protecção de Dados</i> (Portuguese SA)
CSA	Concerned Supervisory Authority
DC	Controller
Decree	French Decree No 2019-536 of 29 May 2019 implementing act of 6 January 1978
DP	Processor
DPA	Finish Data Protection Act Liechtenstein Data Protection Act of 4 October 2018
DPC	Data Protection Commissioner (Irish SA)
DS	Data Subject
DSG	Austrian Federal Act concerning the Protection of Personal Data
EDPB	European Data Protection Board
EDPS	European Data Protection Supervisor
EEA	European Economic Area
EFTA	European Free Trade Association
EU	European Union
GALA	Dutch General Administrative Law Act
GAPA	Austrian General administrative Procedure Act

GDPR	General Data Protection Regulation
IDPC	Italian Data Protection Code
LGPD	Lithuanian Law on Legal Protection of Personal Data
LIL Act	French Act No 78-17 of 6 January 1978 on Informatics, Files and Liberties
LoIoGDPR	Croatian Law on Implementation of the General Data Protection Regulation
LSA	Lead Supervisory Authority
LVG	Liechtenstein Law on Administrative Procedure (LVG)
NAR	National Administrative Rules
OL 3/2018	Spanish Organic Law 3/2018 of 5 December 2018 (OL 3/2018)
OSS	One-Stop-Shop Mechanism
PAA	Norwegian Public Administration Act
PDP Law	Latvian Personal Data Processing Law
PDPA	Bulgarian Personal Data Protection Act Estonian Personal Data Protection Act
Regulation	Luxembourg Regulation of the National Data Protection Commission on the investigation procedure, Adopted by Decision No 4AD/2020 of 22.01.2020, pursuant to Art. 40 of the Act of 1 August 2018 on the organisation of the National Data Protection Commission and the general data protection framework
RoP	Rules of Procedure No. 1/2019 by the Italian Data Protection Authority
SA	Supervisory Authority
VwVfG	German Federal Administrative Procedures Act - <i>Verwaltungsverfahrensgesetz</i>