

GDPR Procedural Regulation One Year Later – Where Are We Now?

Event Takeaways | 27 February 2025



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The Centre for Information Policy Leadership (CIPL) convened a multi-stakeholder roundtable to discuss the GDPR Procedural Regulation, which aims to lay down additional procedural rules for the enforcement of the GDPR (1). This roundtable, held a year after a similar February 2024 discussion on the topic (2), brought together representatives from data protection authorities, industry, and legal experts to evaluate progress and potential challenges.

Under the current GDPR framework, cooperation in cross-border cases takes place through the one-stop-shop mechanism and the consistency mechanism (involving the European Data Protection Board, EDPB). However, practical experience since 2018 has exposed significant divergences in national procedures.

In July 2023, the European Commission proposed a Procedural Regulation to harmonise and streamline these enforcement processes (3). Following positions adopted by the European Parliament and the Council of the European Union, the proposed law is being discussed in technical trilogue negotiations currently led by the Polish Presidency of the EU.

The Need for a Harmonized GDPR Procedural Framework - Why a Procedural Regulation?

The current enforcement cooperation model is in need of improvement. While serious disputes between DPAs are the exception and not the rule, fragmentation in procedural rules continues to be a serious concern for individuals and their ability to seek redress and for organisations that require legal certainty. DPAs across Member States have different standards for gathering evidence, engaging with organisations under investigation, and consulting with fellow DPAs; they also have different rules governing the process overall. This lack of harmonisation has direct consequences, including delays in complex cases and inconsistent experiences for companies and individuals across Member States.

The GDPR Procedural Regulation is intended to fill some of these gaps by creating a single set of procedural rules for cross-border cases. In theory, it would ensure that when a lead authority handles a case with relevance in multiple Member States, all authorities follow the same playbook. For example, it could standardise notice periods, rights to reply, and timeframes so that an investigation led by one DPA proceeds similarly across Member States, supporting not only efficiency but also fairness.

During the roundtable, CIPL set out four fundamental questions to assess the proposed Regulation:

1. Does the Regulation under negotiation provide individuals with a prompt and effective resolution of their complaints?

2. Does the Regulation promote harmonisation and foster mutual trust amongst DPAs?
3. To what extent does the Regulation support the position of the Lead Supervisory Authority and enhance the operation of the One-Stop-Shop mechanism in the implementation of the GDPR?
4. Is the proposal in line with the provisions of the GDPR?

Below, CIPL provides the key takeaways to further inform the continued negotiations of the GDPR Procedural Regulation.

1. Harmonised Procedural Rules Alone Will Not Manufacture Trust

There is an overall understanding that streamlining the process as it currently stands is necessary, and the proposal for Regulation is a welcomed step. Effective and meaningful cooperation between DPAs is a key driver of the successful cooperation process. Any final version of the regulation must be achievable for DPAs to implement in practice; in this context, it is important to keep in mind that DPAs often have limited resources. Additionally, the regulation must create legal certainty for the parties under investigation and ensure a swift outcome for the complainant.

However, procedural rules alone will not create the necessary mutual trust between DPAs, which is often a result of different interpretations of the GDPR. This raises the question of whether the regulation can ultimately accelerate enforcement without addressing these underlying issues (lack of consensus on the uniform interpretation of the GDPR) and whether procedural reforms alone may fail to deliver the intended impact.

The proposed regulation does not sufficiently address differing DPA practices across Member States based on differing national laws (4). This fragmentation can equally weaken trust in the enforcement process and increase the likelihood of legal challenges.

The regulation must clearly establish that, for all cross-border cases, the EU Procedural Regulation takes precedence over conflicting national rules. While purely domestic cases remain under national law, the threshold for determining what constitutes a cross-border case must be well-defined to prevent ambiguity.

2. Harmonisation and the One-Stop-Shop

The OSS is a fundamental pillar of the GDPR, ensuring consistent and efficient cross-border enforcement. Any new procedural rules should protect the balance of this mechanism. The role of the LSA should not be weakened, but CSAs must have sufficient opportunities to provide evidence, raise objections, and propose remedies within structured timeframes. Exchanges must happen early in the process and in the spirit of sincere cooperation. The EDPB should intervene only where DPAs cannot resolve disagreements within given deadlines to prevent routine escalations, ultimately circumventing the process.

It is crucial to establish joint investigative protocols for cases requiring on-site inspections or data gathering and mandate secure, real-time information-sharing between DPAs.

3. Practicable Deadlines

The absence of binding procedural deadlines in the GDPR has led to prolonged investigations and inconsistent enforcement, undermining its credibility and straining enforcement resources. While the introduction of enforceable timeframes is necessary to ensure timely resolutions, these deadlines must be realistic, allowing LSAs and CSAs sufficient time to conduct meaningful investigations and follow due process. In practice, deadlines that do not take the complexity of the process into consideration may force authorities to either cut procedural corners, risk the legal sustainability of their decisions or leave aspects of complaints unaddressed due to time constraints.

Additionally, the proposal to introduce a "statement of reason" from the EDPB mid-procedure may, in practice, be difficult to execute, given the existing two-month deadline for binding decisions and the logistical demands of the dispute resolution process, including plenary meetings, circulating the file and providing the parties with an opportunity to be heard.

Without due consideration for the complexities of the process, strict deadlines could unintentionally weaken enforcement quality rather than improve it.

4. General Considerations

National DPAs, particularly smaller authorities, often lack the staff, budget, and technical resources necessary to implement new and potentially complex procedural obligations. This may ultimately lead to two-speed enforcement: well-resourced DPAs that can participate in the resource-intensive process and smaller DPAs that will not have the capacity to meaningfully engage in this process.

To avoid these inefficiencies, lawmakers must ensure that the new framework takes fully into consideration the realities of DPA resources and the complexities of the process before enacting new rules. Any new rules must be carefully drafted and clearly defined to ensure consistency within and with the GDPR itself.

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Endnotes

1 - CIPL Roundtable Discussion GDPR Procedural Regulation – One Year Later – Where Are We Now?, 27 February 2025, Brussels.

2 - CIPL's response to the European Commission's call for evidence on further specifying procedural rules relating to the enforcement of the General Data Protection Regulation, available at https://www.informationpolicycentre.com/uploads/5/7/1/0/57104281/cipl_response_to_ec_call_for_evidence_-_gdpr_procedural_rules_harmonisation_23_march_2023.pdf; CIPL Comments on the Proposal for a Regulation laying down additional procedural rules relating to the enforcement of Regulation (EU) 2016/679, available at https://www.informationpolicycentre.com/uploads/5/7/1/0/57104281/cipl_comments_on_ec_proposal_on_gdpr_procedural_regulation_3_september_2023.pdf; CIPL and Hunton Andrews Kurth LLP op-ed The European Commission Draft GDPR Procedural Regulation and European Parliament Draft LIBE Report: On the Road to Harmony, available at <https://www.linkedin.com/pulse/european-commission-draft-gdpr-procedural-m0yfe>.

3 - Proposal for a Regulation of the European Parliament and of the Council laying down additional procedural rules relating to the enforcement of Regulation (EU) 2016/679.

4 - For instance, with respect to complaint handling, DPAs have different practices of notifying the individual of a closed complaint, which has an impact on the individual's ability to seek further redress.