

During its last plenary session held on 28 July 2021, the EDPB adopted a Dispute Settlement Decision under Article 65 of the GDPR. The binding decision seeks to address the lack of consensus on certain aspects of the draft decision issued by the Irish Supervisory Authority (LSA) regarding WhatsApp Ireland Ltd. (WhatsApp IE) and subsequent objections expressed by a number of relevant stakeholders (CSAs).

The lead supervisory authority issued a draft decision following the WhatsApp IE investigation into whether WhatsApp IE has aligned its transparency obligations under Articles 12, 13 and 14 of the GDPR. On 24 December 2020, the lead supervisory authority shared its draft decision with the supervisory authorities concerned in accordance with Article 60 (3) of the GDPR. The supervisory authorities concerned raised objections under Article 60 (4) of the GDPR, which relate, inter alia, to identified breaches of the GDPR, the question of whether the personal data in question should be considered personal data and their consequences, and the appropriateness of corrective action.

The lead supervisory body failed to reach a consensus, considering the objections of the supervisory authorities concerned, and therefore informed the Committee that it would not follow up on the objections. Accordingly, the lead supervisory authority referred them to the establishment of the EDPB pursuant to Article 65 (1) (a) of the GDPR, thus initiating a dispute settlement procedure.

The EDPB has adopted its binding decision. The decision addresses the merits of objections that have been found to be “relevant and reasoned” in accordance with the requirements of Article 4 (24) of the GDPR. The EDPB will soon formally notify its decision to the relevant supervisory authorities concerned.

The lead supervisory authority will adopt its final decision, addressed to the controller, based on the EDPB's decision, without undue delay, and no later than one month after the EDPB has notified its decision. The EDPB will publish its decision on its website without undue delay after the lead supervisory authority notifies the controller of its national decision.