

One-Stop-Shop Cross-Border Complaint Statistics

**25 May 2018 -
30 September 2023**



**An Coimisiún um
Chosaint Sonraí**
Data Protection
Commission

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EXECUTIVE SUMMARY

Since the introduction of the General Data Protection Regulation (GDPR) in May 2018, the Data Protection Commission (DPC) has received and concluded a significant number of cross-border complaints through the GDPR's "one-stop-shop" (OSS) mechanism.

The OSS facilitates multi-national controllers that operate across the EU/EEA by allowing them deal with a single lead supervisory authority (LSA) as their "sole interlocutor". Only EU-based controllers or processors can qualify for the OSS. Whether to avail of it or not is a decision for the organisations themselves. This means many multi-nationals including large internet platform processing operations sit outside the OSS and, in those circumstances, any supervisory authority may be competent to act.

For any individual in an EU/EEA state, if they wish to lodge a complaint, they may lodge it directly with the supervisory authority that is the LSA (if there is an LSA) or they may lodge it with their local/national authority which will transmit it to the LSA if it transpires to be an "OSS case". In these latter cases the national authority is known as a concerned supervisory authority (CSA).

For the majority of cross-border complaints it receives, the DPC is responsible for dealing with them as the EU/EEA lead supervisory authority for the organisations concerned. The DPC also receives a number of complaints from individuals about organisations where another EU/EEA data protection authority is the lead. In these cases, the DPC transfers the complaints to the relevant authority via the OSS mechanism.

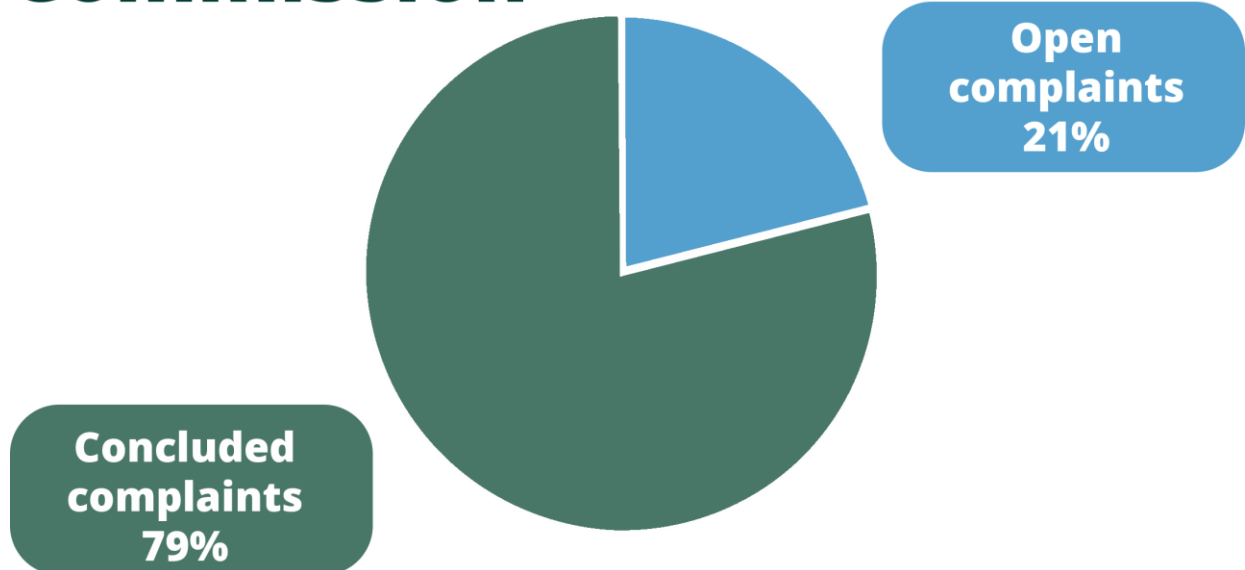
This report covers the period 25 May 2018 to 30 September 2023. The report provides an overview of the DPC's cross-border complaint handling processes and the associated metrics, including the number of complaints received, numbers concluded, and outcomes achieved. For full context, the DPC has received almost 23,000 complaints since the GDPR came into application of which over 21,000 (92%) have been concluded.

The report shows that:

- **1,604 valid cross-border complaints have been received directly by the DPC; 1,389 (87%) as LSA and 215 (13%) as a CSA.**
- **854 (61%) cross-border complaints handled by the DPC as the LSA were originally lodged with another supervisory authority and transferred to the DPC.**

- **79% of all cross-border complaints handled by the DPC as the LSA since May 2018 have been concluded. As at 30 April 2023, the corresponding figure for complaints concluded was 75%.**
- **92% of complaints received in 2018, 91% in 2019, 84% in 2020, 83% in 2021 and 59% in 2022 are now concluded. As at 30 April 2023, the corresponding figures for complaints concluded were 92% of complaints received in 2018, 89% in 2019, 80% in 2020, 73% in 2021 and 25% in 2022.**
- **Of the 1,097 concluded cross-border complaints handled by the DPC as the LSA, 83% were resolved through amicable resolution in the interests of the complainant.**
- **The DPC has submitted 366 complaint-based cases to the GDPR Article 60 cooperation process.**
- **26% of open cross-border complaints are linked to an inquiry and will be concluded on the finalisation of the inquiry.**
- **87% of all cross-border complaints handled by the DPC as the LSA relate to 10 data controllers.**
- **48% of complaints transferred by the DPC to other EU/EEA LSAs (excluding the UK) have been concluded.**

Data Protection Commission



Cross-border complaints open and concluded where the DPC is the lead supervisory authority (LSA)

Other Lead Supervisory Authorities



Cross-border complaints open and concluded where complaint lodged with the DPC and transferred to another EU/EEA authority (excl UK) as the LSA

ONE-STOP-SHOP MECHANISM¹ – EU/EEA CROSS-BORDER COMPLAINTS

Of the **1,604 cross-border complaints received by the DPC since May 2018**, which after initial assessment and review were deemed to be valid, **87% (1,389) were cases in which the DPC was the lead supervisory authority²**.

Since May 2018, 203 valid cross-border complaints have been lodged with the DPC where the DPC acts as a concerned supervisory authority³, i.e., another supervisory authority is the lead and is responsible for handling the complaint.

DPC ROLE	NO. OF VALID COMPLAINTS ⁴	%
LEAD SUPERVISORY AUTHORITY (LSA)	1,389	87%
CONCERNED SUPERVISORY AUTHORITY (CSA)	215	13%
TOTAL	1,604	

Figure 1. CROSS-BORDER COMPLAINTS WITH DPC IN ACTIVE ROLE (since May 2018)

¹This OSS innovation under the GDPR facilitates multi-national controllers that operate across the EU/EEA by allowing them deal with a single lead supervisory authority (LSA) as their “sole interlocutor”. Only EU-based controllers or processors can qualify for the OSS.

²The LSA will be that of the member state in which the organisation has based its “main or single establishment”. The main or single establishment of an organisation is generally its place of central administration and/or decision-making.

³A supervisory authority is deemed to be “concerned” with a case if the organisation (controller or processor) is established on the territory of the Member State of that supervisory authority; if data subjects residing in the Member State of that supervisory authority are substantially affected or likely to be substantially affected by the processing; or if a complaint has been lodged with that supervisory authority.

⁴The DPC deems a cross-border complaint valid following the completion of a series of assessment measures including, but not limited to, confirmation that the processing in question is cross-border in nature and that the DPC is either lead supervisory authority or a concerned supervisory authority, verification that all necessary documents have been made available (further documents will be requested where applicable); verification that the data subject has contacted the data controller to exercise their rights, etc.

CROSS-BORDER COMPLAINTS WITH DPC AS LEAD SUPERVISORY AUTHORITY

In the period May 2018 to 30 September 2023, the DPC has acted as LSA for 1,389 valid complaints, of which 854 (61%) were lodged by complainants with another EU/EEA supervisory authority and transferred to the DPC via the OSS mechanism. 535 (39%) cross-border complaints were lodged directly with the DPC.

METHOD OF RECEIPT	NO. OF COMPLAINTS	%
VALID COMPLAINTS LODGED DIRECTLY WITH THE DPC	535	39%
VALID COMPLAINTS LODGED WITH ANOTHER EU/EEA SA	854	61%
TOTAL	1,389	

Figure 2. INITIATION METHOD OF CROSS-BORDER COMPLAINTS WHERE DPC IS LSA

79% of the 1,389 valid cross-border complaints for which the DPC is the LSA have now been fully concluded.

As illustrated by the table beneath, 92% of the complaints received in 2018, 91% of those received in 2019, 84% received in 2020, 83% received in 2021, and 59% received in 2022 have now been concluded.

YEAR	NUMBER OF VALID CROSS-BORDER COMPLAINTS RECEIVED	NUMBER CONCLUDED AS AT 30/9/23	% CONCLUDED
2018 (May – Dec)	156	143	92%
2019	400	363	91%
2020	306	258	84%
2021	270	224	83%
2022	169	100	59%
2023 (to 30/9/2023)	88	9	10% ⁵
TOTAL	1,389	1,097	79%

Figure 3. BREAKDOWN OF CROSS-BORDER COMPLAINTS RECEIVED PER YEAR AND CONCLUDED

A number of open complaints are linked to an inquiry. See section “CROSS-BORDER COMPLAINTS LEADING TO INQUIRIES”.

⁵ On average, provided there are no other delays, when corresponding with a complainant in another Member State regarding their complaint (which must be done via the concerned supervisory authority using the EDPB’s IMI communication system), it may take at least three months from the time the DPC uploads its correspondence to the IMI until the DPC receives a reply from the complainant. In some instances, the DPC may reach out to the complainant three or four times as part of the complaint handling process in an attempt to amicably resolve the complaint for the complainant. The length of time it takes to exchange correspondence through the IMI/OSS (the process of translation of correspondence into the language of the complainant and vice versa by the concerned supervisory authority being a significant factor) has a direct impact on the length of time it takes to progress complaints to a conclusion.

OUTCOME OF CONCLUDED COMPLAINTS WHERE THE DPC IS LSA

There are various circumstances and courses of action that can lead to the closure of a valid cross-border complaint by the DPC.

Concluded by Amicable Resolution

The first action taken by the DPC when it commences work on a valid cross-border complaint is to exercise the **amicable resolution** powers afforded to it by the Data Protection Act 2018⁶. The DPC will carry out an assessment of each valid cross-border complaint to establish if it is suitable for progressing with this less adversarial course of action designed to achieve speedier and more resource efficient outcomes for individuals⁷.

83% of the 1,097 cross-border complaints (where the DPC is LSA) concluded in the period May 2018 to 30 September 2023 were closed through the amicable resolution process.

There is **no obligation on complainants to agree to follow an amicable resolution** path once it has been proposed to them. Even in circumstances where the DPC considers that an amicable resolution is suitable and possible, and where it has conducted an investigation in furtherance of achieving an amicable resolution, the complainant can decide **not to accept it**. In these cases, which are in the minority due to the amount of work and resources put into proposing an appropriate amicable resolution to the complainant, the DPC will proceed to prepare a draft decision in accordance with Article 60 of the GDPR that will determine whether an infringement has taken place, and if any corrective powers are to be utilised.

Complainant no longer pursuing complaint

In some cross-border complaint cases, events occur which result in the complainant ceasing to engage with the DPC, even after their complaint has been accepted as valid⁸.

⁶ Section 109(2) of the Data Protection Act 2018:

“The Commission, where it considers that there is a reasonable likelihood of the parties concerned reaching, within a reasonable time, an amicable resolution of the subject matter of the complaint, may take such steps as it considers appropriate to arrange or facilitate such an amicable resolution.”

⁷ Amicable resolution involves contacting the organisation (data controller), asking questions in relation to the subject matter of the complaint, probing the answers provided by the organisation prior to proposing an amicable resolution to the complainant if the DPC is of the view that the responses of the organisation may facilitate an outcome in the interests of the complainant.

⁸ The reasons for complainants ceasing to engage observed by the DPC range from the data controller having engaged with the complainant directly to resolve the issue without further involvement of the DPC, or the lack of a response from the complainant to a request for additional information which is necessary to proceed with the complaint. This trend also occurs when the DPC is handling national (or domestic as distinct from cross-border) complaints and, while there are many possible reasons, most likely that the matter has been resolved, the DPC must deem these complaints closed if engagement by the complainant with the DPC in relation to their complaint ceases.

While no further action will be taken in these cases, **the DPC will always re-open such complaints if the complainant decides at a future date to re-engage with the complaint handling process.**

Of the cross-border complaints (where the DPC is LSA) concluded in the period May 2018 to 30 September 2023, **15% were closed on the basis that the complainant was no longer pursuing the complaint.**

Article 60 Cooperation Procedure

The DPC has submitted 366 complaint-based cases to the GDPR Article 60 cooperation process to date. This comprises 23 draft decisions in complaints that affected more than one individual or where further inquiry was required, as the complainant was not satisfied with the actions of the controller to resolve their complaint. Cases submitted to the Article 60 cooperation procedure also include 343 complaints where an amicable resolution has been achieved, having regard to European Data Protection Board (EDPB) guidelines on amicable settlements adopted in November 2021.

In addition to complaint-based cases, the DPC has submitted 9 draft decisions in own-volition large-scale inquiries to the Article 60 cooperation procedure. Several other DPC inquiries have now reached a very advanced stage in the preparation of draft decisions for the Article 60 procedure.

The EDPB is obliged to maintain a database of cases finalised through the cooperation and consistency procedure. However, as can be seen from the cases on the public register⁹ not all authorities permit the EDPB to publish decisions and the database is not currently up-to-date. In addition to complaint related cases, ex-officio or own-volition investigation decisions are also included on the register.

The cooperation and consistency procedure has concluded in 343 cases submitted by the DPC to the Article 60 procedure, of which, to date, 55 have been published on the EDPB register. These cases comprise complaint-based inquiries, own-volition inquiries and amicable resolution complaints.

⁹https://edpb.europa.eu/our-work-tools/consistency-findings/register-for-article-60-final-decisions_en?f%5B0%5D=article_60_lsa%3A676

CROSS-BORDER COMPLAINTS LEADING TO INQUIRIES

The DPC exercises its powers under the GDPR and the Data Protection Act 2018 to carry out inquiries into organisations where a potential significant risk to EU data subjects is in question. The DPC can commence a **“complaint-based inquiry”** specific to an individual complaint. Alternatively, where there are multiple complaints pointing to potential systemic issues of non-compliance, the DPC may launch an **“own-volition inquiry”** to investigate the matters concerned. In such circumstances, the DPC may pause the handling of the relevant individual complaints. The outcome of those complaints will remain pending until the related inquiry has been concluded, after which the handling of the related complaint will resume and be concluded on the basis of the DPC’s decision in the own-volition inquiry.

As at 30 September 2023, 26% of the 292 open cross-border complaints were linked to either a complaint-based or own-volition inquiry.

CROSS-BORDER COMPLAINTS LODGED WITH OTHER SUPERVISORY AUTHORITIES

The GDPR One-Stop-Shop mechanism enables citizens to lodge complaints with their local supervisory authority, regardless of whether the data controller/processor has an establishment in that Member State. The DPC, therefore, receives complaints that have been lodged with all other EU/EEA supervisory authorities, which it must handle as the lead supervisory authority.

The table below sets out the supervisory authorities from which the largest number of valid cross-border complaints were received by the DPC in the period May 2018 to 30 September 2023 (with DPC as LSA). The table also shows the percentage number of transmitted complaints concluded as at 30 September 2023. For example, valid cross-border complaints lodged with supervisory authorities in Germany account for 19% of all cross-border complaints handled by the DPC between May 2018 and 30 September 2023. 78% of complaints received from Germany have been concluded.

COUNTRY (TOP 10)	% OF TOTAL VALID COMPLAINTS RECEIVED MAY 2018 TO 30/9/23	% OF COMPLAINTS CONCLUDED AT 30/9/23
Germany (Federal & Lander)	19%	78%
France	9%	73%
Spain	7%	64%
United Kingdom	6%	100%
Austria	4%	84%
Poland	3%	73%
Netherlands	2%	86%
Denmark	2%	75%
Italy	2%	76%
Norway	1%	53%

Figure 5. % OF VALID CROSS-BORDER COMPLAINTS RECEIVED AND CONCLUDED PER INITIATING AUTHORITY

CROSS-BORDER COMPLAINTS BY ORGANISATION

The 1,389 valid cross-border complaints received since May 2018, for which the DPC is the LSA, involve over 75 different data controllers. The table below illustrates that 10 technology and internet platform multi-national companies account for 87% of those complaints.

DATA CONTROLLER (TOP 10)	% OF TOTAL CROSS-BORDER COMPLAINTS DPC AS LSA
Meta Platforms Ireland Limited	34%
Google Ireland Limited	11%
WhatsApp Ireland Limited	7%
Airbnb Ireland UC	7%
Yahoo EMEA Limited	7%
Microsoft Ireland Operations Limited	6%
Twitter International Company	5%
MTCH Technology Services Limited	4%
Apple Distribution International	4%
LinkedIn Ireland UC	3%
	87%

Figure 6. % OF CROSS-BORDER COMPLAINTS PER DATA CONTROLLER (TOP 10)

CROSS-BORDER COMPLAINTS WITH DPC AS CONCERNED SUPERVISORY AUTHORITY (CSA)

In the period May 2018 to 30 September 2023, 114 cross-border complaints were lodged with the DPC, where another EU/EEA supervisory authority (excluding the UK) was the lead supervisory authority. The organisations against which such complaints were made included KLM, Amazon, eBay, Lufthansa, Uber, Netflix, Mastercard, TAP Air Portugal, FedEx, Air France, PayPal, Brittany Ferries and Spotify.

55 (48%) complaints sent by the DPC to other EU/EEA LSAs have been concluded.

Of the complaints concluded by other LSAs, as at 30 September 2023, **25% were concluded outside of the GDPR Article 60 process**. In some of these cases, the LSA sent the DPC the response of the Data Controller, or summarised it in a letter to the complainant, and asked the DPC to offer the controller's response to the complainant as a resolution for their complaint. In other cases, the LSA sent the DPC a letter to send to the complainant which informed them that the LSA considered it was not in a position to further investigate the complaint.

36% of closed complaints where the DPC was CSA were concluded through the Article 60 cooperation procedure. Of these, the complaint was upheld in fourteen cases, rejected in two cases and dismissed in four cases.

The remaining **39% of complaints were withdrawn or not pursued by the complainants.**