Spolek pro ochranu osobních údajů

# Comments on the EDPB's DPIA Template

We welcome the opportunity to provide feedback on the recently published EDPB draft of DPIA Template ("Template").

We greatly appreciate the EDPB for preparing Template and addressing a very interesting question concerning the protection of personal data.

We consider the DPIA Template a very well-prepared document. Nevertheless, we would like to submit several comments on it.

Generally, we would like to point out that, in some cases, the Template assumes the provision of information that may not yet be available to the controller concerned when the DPIA is being prepared. For example, point 18 of the Explainer requires the provision of "*full chain composed of controller, processors and sub-processors*". At the time the DPIA is prepared, this may not yet be clear, for instance where the controller concerned is currently conducting a tender for its suppliers or where standard, widely used services are involved. In such cases, a description of the planned technologies should be sufficient.

In some cases, the requirements to enumerate the assets used may also be too detailed. For example, point 20 states "*Examples of assets are hardware, infrastructure, and network assets (i.e., servers, laptops, mobile devices, storage media, scanners, VPN gateways), software (database engines, business applications), APIs and models, personnel (users, administrators, developers, operators, support staff, decision-makers), sites and premises (data centres, archives), organisational assets (policies, procedures, contracts with processor and sub-processors), etc.".* Here, we would place greater emphasis on the requirement to list only "*essential asset*", as stated at the beginning of this provision (and in the following sentence), or on clarifying the level of detail that the EDPB expects in this case. In practice, it will often not make sense to enumerate ordinary IT equipment (even by type), especially where this is not decisive from the perspective of the processing risks.

In some cases, we recommend linking the Template more closely to other legal regulations, or allowing greater account to be taken of various risk analyses carried out under other legal regulations, such as the AI Act or NIS2, so that controllers are not forced to repeat analyses that have already been carried out and can use them (for example, merely taking into account that the objective of the GDPR, unlike these other regulations, is the protection of personal data).

We would also appreciate if EDPB could express its view on whether it expects this methodology to be applied retroactively to DPIAs already carried out or, conversely, whether it should be used only for newly conducted assessments.

Regarding the individual points of the Template:

In points 1.1.a and 2.1.b of the Template, we recommend also taking into account data within the meaning of Article 10 of the GDPR.

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In point 1.1.d, we recommend adding that "*justification*" for cross border processing is needed only where this substantially increases the risks (see the principle of "free flow of personal data in EU").

In point 2.3.a, for "*planned*" we recommend adding the expected implementation period as an additional item, because it may play a crucial role in terms of mitigation effects.

**We are grateful for the opportunity to provide our comments on the draft of Template. We would like to thank the EDPB very much for its efforts to clarify various issues related to the processing of personal data. We hope that our comments will help in formulating the final version of the Templates.**

Prague, 07.06.2026

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