L'Afep

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POSITION PAPER

EDPB template for Data Protection Impact Assessment

L'Afep supports the EDPB's intention to propose to controllers a template for Data Protection Impact Assessment (DPIA) as well as an explainer to this template.

French large companies note that, the preparation of this template is not foreseen in the current version of Article 35 of the General Data Protection Regulation (GDPR), and proposed by the European Commission in its draft Digital Omnibus currently under analysis, review and discussions by the colegislators. **L'Afep warmly welcomes and supports the idea to prepare a common template and a common methodology for conducting DPIA**.

This will contribute to a **better harmonization of the GDPR implementation within the internal market as well as simplifying the requirements on companies**. The development of a regulatory framework that is as simple, clear and consistent as possible must be a strategic objective of the EU and its institutions in order to ensure optimal economic development for its citizens and businesses.

Therefore, L'Afep encourages the EDPB to adopt the most ambitious approach possible un terms of simplification, rationalization and coordination of the application of article 35.

Furthermore, **it is essential that this model remains non-binding for organisations**, which have, since the adoption of the GDPR in 2016, had to ensure compliance by adopting methods for conducting a DPIA. Conversely, **national authorities should**, in line with the commitment made by the EDPB and the national authorities in their Helsinki Declaration of 2 July 2025, **refrain from adopting additional measures at national level** that would complicate the European regulatory framework and undermine the harmonisation of the internal market that this model rightly seeks to achieve.

As a preliminary observation, L'Afep notes that **the explanatory guide adds little value to the template**. In order to provide practical assistance to organisations in the risk assessments they are required to carry out, **this guide could usefully be supplemented with concrete examples of practical situations faced by data controllers**.

In the absence of further clarification on these points, **the proposed model risks missing the point of the exercise and remaining a purely theoretical exercise**.

On the template itself, French large companies mainly have observations on the section 2 related to the analysis of the processing, and section 3 dedicated to considerations on necessity and proportionnality. This last section is, in fact, at the heart of the DPIA process, and it is on this section that data controllers expect the most clarification from the regulatory authorities.

Large companies encourage the EDPB to d**evelop and maintain a template that is as concise and clear as possible**. They note that it is not the purpose of a DPIA to describe the history of a processing operation (see section 0.3 "*Name of the processing*"), and that simply referring to the latest version within the DPIA may suffice. Tracing the full history of a processing operation would constitute an excessive regulatory burden with no added value for data controllers. They therefore encourage the EDPB to allow for a reference to the processing register for further details. In this regard, **the issue of coordinating a DPIA with the record of processing activities is central and must be addressed in such a way as to avoid duplication**.

Similarly, they question the distinction made regarding the processing history in sections 0.3 "*Name of the processing*" and 0.5 "*DPIA technical sheet*", which appear to be redundant in this respect. In the same vein, the information on the team responsible for conducting the DPIA should remain concise and practical, without dwelling unnecessarily on their "*roles, tasks, responsibilities, etc.*".

Finally, such a template offers an opportunity to restore the risk-based approach enshrined in the GDPR to the heart of controllers' compliance processes. This is all the more important if privacy specialists are to focus their time and efforts on the processing operations that present the highest risks, in the interests of data subjects themselves.

In practice, controllers may, once the initial sections of a DPIA have been completed, and with the support of their data protection specialists, conclude that the processing they intend to implement presents only limited risk. In such circumstances, it would be sensible to allow for the DPIA to be discontinued at any stage of the process, without requiring it to be completed in full, while preserving the possibility of resuming and updating it should the situation evolve.

1 - Section 2 – Analysis of the processing

L'Afep notes that Article 35(7) of the GDPR sets out the four main categories of minimum analysis elements that a DPIA must contain: (i) a systematic description of the envisaged processing operations and the purposes of the processing, (ii) an assessment of the necessity and proportionality of the processing operations in relation to the purposes, (iii) an assessment of the risks to the rights and freedoms of data subjects, and (iv) the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of personal data and to demonstrate compliance with this Regulation.

These elements are reflected in the template proposed by the EDPB in Sections 1, 3 and 4. Conversely, Section 2, as currently structured and drafted, does not appear to meet the requirements of Article 35(7) of the GDPR.

Furthermore, much of the information requested by the EDPB in this section has already been provided by data controllers in their processing records, which are mandatory under Article 30 of the GDPR. **The distinction in the text of the GDPR between Article 30 and Article 35 therefore appears to have been blurred here**. Large companies are wondering how to distinguish between what needs to be included in the record of processing activities and what needs to be included in the DPIA. Furthermore, companies are questioning the need to reproduce in this section information that has already been provided and is clearly identifiable under Article 30 of the GDPR.

In reality, this section – despite being entitled "*Analysis of the processing*" – remains largely descriptive and does not really address the risks to the rights and freedoms of the data subjects.

With regard to section 2.1.b, French large companies invite the EDPB to specify in the heading "*where applicable*", given that the prohibition laid down in Article 9 of the GDPR applies only to certain specific categories of data.

With regard to section 2.3., French large companies are questioning the added value of this section in relation to the record of processing activities. With regard to point 2.3.a, on measures supporting compliance with Article 5 of the GDPR, they note that such measures to ensure compliance with the principles of Article 5 must, by definition, be implemented to enable legally processing personal data. Companies are therefore uncertain how the "*implementation status*" column should be interpreted and how a "*planned*" or "*partially implemented*" answer could be acceptable. They also question the specific elements expected by the EDPB as "*supporting measures*" in the table presented in point 2.3.b. In 2.3.b, to e. additional elements would be welcome to illustrate the types of security measures that could be implemented for each category, as well as the expected level of detail.

2 - Section 3 – Considerations on necessity and proportionality

As observed above, French large companies note that **this section constitutes the heart of the DPIA process**. They are therefore surprised by the lack of detail in this section, which accounts for just one page out of the eighteen pages of the proposed template, and are still awaiting clarification from the EDPB.

To truly assist organisations in carrying out a DPIA, they stress the need to supplement this template or the explanatory guide with real-life scenarios faced by data controllers. For instance, the analysis proposed by the EDPB could usefully be illustrated with **commercial management or human resources** – standard situations faced by many data controllers. In terms of human resources management, it may, for example, be justified to request access to candidates' criminal records to ensure their integrity, as they will be in contact with a vulnerable public. The EDPB's concrete analysis on this subject would be greatly appreciated. Similarly, clarifications on common examples for both public bodies and private companies regarding the management of payroll, medical records, or the monitoring of Internet use would be very helpful.

As regard the explanatory guide, L'Afep first notes that it refers to the formal approval of the DPIA by a member of the organisation's top management, explicitly targeting the managing

director or the CEO. In practice, however, a decision on this matter would rarely, or even never, be taken at that level of responsibility.

Above all, generally speaking, this guide does not provide supporting documents for the template, explaining how to conduct a DPIA, and in particular on how to assess the risks to the rights and freedoms of data subjects. For example, section six, which deals with the conclusion of the analysis and the decision taken, refers to situations in which "*the risks are unacceptable*", but no guidance is provided on how to assess this unacceptability.

Finally, French large companies are questioning the structure of the proposed template. Indeed, the elements described in Section 3 are crucial to the analysis as a whole, including certain elements covered in Section 2, particularly with regard to ensuring compliance with the GDPR. In these circumstances, the question of whether Section 3 should be moved up the model's outline may arise, or even whether parts of Section 2 should be included at all.

About L'Afep

Founded in 1982, L'Afep brings together 117 of the largest French companies, which represent 15% of France's commercial GDP, employ 13% of the private sector workforce, and account for 20% of the mandatory corporate contributions in France. L'Afep member companies employ 8.5 million people and are key players in the French, European, and global economies across all sectors of activity. Among the 60 largest European companies, a third is a member of L'AFEP.

Its mission is to contribute to the creation of an environment conducive to the development of economic activity and to make the voice of large French companies heard by policymakers in Paris and Brussels. They are fully committed to the green and digital transition, innovation, and the pursuit of better governance.

L'Afep is involved in drafting cross-sectoral legislation, at French and European level, in the following areas: economy, taxation, company law and corporate governance, corporate finance and financial markets, competition, intellectual property, digital and consumer affairs, labour law and social protection, environment and energy, corporate social responsibility and trade.

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