

# Comments to the draft of EDPB- Guidelines 9/2022 on personal data breach notification under GDPR

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## I. Introduction

On 18 October 2022, the draft of „*Guidelines 7/2022 on data breach notification under GDPR*“ was submitted by the European Data Protection Board (EDPB) for public consultation. This document constitutes the contribution of dacuro GmbH to this process. The comment below refers to the paragraphs (further as “para.“ or „paras.“) of the draft.

## II. Comments

- **Para. 75:** In para. 75 one can read as follows: *“Article 33(1) GDPR makes it clear that breaches that are “unlikely to result in a risk to the rights and freedoms of natural persons” do not require notification to the supervisory authority. An example might be where personal data are already publically available and a disclosure of such data does not constitute a likely risk to the individual”*. Our suggestion would be that the EDPD clarifies the scope of term *“publically available”* in a footnote or in brackets in order to prevent its potential misinterpretations in the future (e.g., Would the paid access to the personal data disqualify them as being publically available?).