



Report on the application of the GDPR under Article 97

Questions to Data Protection Authorities / the European Data Protection Board

Fields marked with * are mandatory.

1 Introduction

According to Article 97 of the GDPR, the Commission should submit a first report on the evaluation and review of the Regulation to the European Parliament and the Council by 25 May 2020, followed by reports every four years thereafter. The Commission's first report was adopted on 24 June 2020 (the '2020 report'). [1] The next report is due by mid 2024 (the '2024 report').

In this context, the Commission should examine, in particular, the application and functioning of:

- Chapter V on the transfer of personal data to third countries or international organisations with particular regard to decisions adopted pursuant to Article 45(3) of this Regulation and decisions adopted on the basis of Article 25(6) of Directive 95/46/EC; and
- Chapter VII on cooperation and consistency.

The GDPR requires that the Commission takes into account the positions and findings of the European Parliament and the Council, and of other relevant bodies and sources. The Commission may also request information from Member States and supervisory authorities.

Against this background, this document seeks to obtain the views of the European Data Protection Board on the abovementioned points. As was also done for the 2020 report, this document also seeks to obtain information from data protection authorities (DPAs) on their enforcement of the GDPR and on activities undertaken to promote awareness of data protection rights and obligations.

We would be grateful to receive replies to the below questions (in English) by **15 December 2023**.

In 2020, the European Data Protection Board provided a consolidated contribution of the individual replies of the DPAs to the questionnaire circulated in preparation of the 2020 report.[2] The Commission would be grateful if the Board would again provide such a contribution, in addition to providing the individual replies of DPAs. When there are several DPAs in a given Member State, please provide a consolidated reply at

national level. In the context of the preparation of the report, and following the input from other stakeholders, it is not excluded that we might have additional questions at a later stage.

Please note that your replies might be made public or may be disclosed in response to access to documents requests in accordance with Regulation (EC) No 1049/2001.

[1] Communication from the Commission to the European Parliament and the Council, Data protection as a pillar of citizens' empowerment and the EU's approach to the digital transition - two years of application of the General Data Protection Regulation, 24.6.2020 COM(2020) 264 final.

[2] https://edpb.europa.eu/sites/default/files/files/file1/edpb_contributiongdprevaluation_20200218.pdf

2 Supervisory Authority

* 2.1 Select your supervisory Authority

- Austria
- Belgium
- Bulgaria
- Croatia
- Cyprus
- Czech Republic
- Denmark
- EDPS
- Estonia
- Finland
- France
- Germany
- Greece
- Hungary
- Iceland
- Ireland
- Italy
- Latvia
- Liechtenstein
- Lithuania
- Luxembourg
- Malta
- Netherlands
- Norway
- Poland
- Portugal
- Romania
- Slovakia
- Slovenia
- Spain

3 Chapter V

* 3.1 In your view, should the data protection framework of any third country or international organisation be considered by the Commission in view of a possible adequacy decision?

- Yes
 No

* 3.2 If yes, of which third country or international organisation ?

We do not have any current proposals.

* 3.3 The Commission is interested in the views of the Board on the third countries for which enforcement cooperation agreements under Article 50 GDPR should be prioritised, in particular in light of the volume of data transfers, role and powers of the third country's supervisory authority and the need for enforcement cooperation to address cases of common interest. Please mention the countries that, in your view, should be prioritised and the reasons.

We do not have any current proposals.

3.4 Reasons for prioritisation if there should be any:

3.5 Are there any other suggestions or points you would like to raise as regards tools for international transfers and/or enforcement cooperation with foreign partners?

We do not have any current proposals.

4 Chapter VII

In July 2023, the Commission adopted a proposal for a regulation laying down additional procedural rules relating to the enforcement of the GDPR.[1] The DPAs and the EDPB provided extensive input to the Commission during the preparation of the proposal and following adoption, the EDPB and the EDPS adopted a joint opinion on the proposal on 19 September 2023.[2] The questions below focus on DPAs' application and enforcement of the GDPR and do not seek DPAs' views on the proposal.

[1] Proposal for a Regulation of the European Parliament and of the Council laying down additional procedural rules relating to the enforcement of Regulation (EU) 2016/679, COM/2023/348 final.

[2] https://edpb.europa.eu/our-work-tools/our-documents/edpb-edps-joint-opinion/edpb-edps-joint-opinion-012023-proposal_en

4.1 Cooperation Mechanism

4.1.1 One-stop-shop (OSS) – Article 60 GDPR

The EDPB Secretariat will extract from IMI the numbers regarding the OSS cases where your DPA has been in the lead and concerned since 25 May 2018

The EDPB Secretariat will extract from IMI the numbers regarding whether your DPA has been in the situation of the application of the derogation provided for in Article 56(2) GDPR (so-called “local cases”, i.e. infringements or complaints relating only to an establishment in your Member State or substantially affecting data subjects only in your Member State).

4.1.1.1 Do you have any comment to make with respect to the identification and handling of local cases under Article 56(2) GDPR?

- Yes
- No

*** 4.1.1.3 Did you raise relevant and reasoned objections?**

- Yes
- No

*** 4.1.1.4 In how many cases did you raise relevant and reasoned objections?**

2

*** 4.1.1.5 Which topics were addressed?**

In both cases the objections we raised concerned the question of legal basis.

*** 4.1.1.6 In how many did you reach consensus with the LSA?**

The cases are still pending.

4.1.2 Mutual assistance – Article 61 GDPR

*** 4.1.2.1 Did you ever use Mutual Assistance - Article 61 procedure in the case of carrying out an investigation?**

- Yes
- No

*** 4.1.2.3 Did you ever use Mutual Assistance - Article 61 procedure in the case of monitoring the implementation of a measure imposed in another Member State?**

- Yes
- No

*** 4.1.2.4 Could you explain why you have never used Mutual Assistance - Article 61 procedure for monitoring the implementation of a measure imposed in another Member State?**

So far, it has not been relevant.

*** 4.1.2.5 What is your experience when using Mutual Assistance - Article 61 procedure?**

Our experience with using Article 61 is still limited. It is not possible to say something general about our experience with using the procedure yet.

4.1.3 Joint operations – Article 62 GDPR

*** 4.1.3.1 Did you ever use the Joint Operations - Article 62 procedure (both receiving staff from another DPA or sending staff to another DPA) in the case of carrying out an investigation?**

- Yes
- No

*** 4.1.3.2 Could you explain why you have never used Joint Operations - Article 62 procedure for carrying out an investigation?**

So far, it has not been relevant.

*** 4.1.3.3 Did you ever use Joint Operations in the case of monitoring the implementation/enforcement of a measure imposed in another Member State?**

- Yes
 No

*** 4.1.3.4 Could you explain why you have never used Joint Operations - Article 62 procedure for implementation/enforcement of a measure imposed in another Member State?**

So far, it has not been relevant.

4.2 Consistency mechanism

4.2.1 Urgency Procedure – Article 66 GDPR

*** 4.2.1.1 Did you ever adopt any measure under the urgency procedure?**

- Yes
 No

4.3 European Data Protection Board

The EDPB Secretariat will provide an indicative breakdown of the EDPB work according to the tasks listed in Article 70 GDPR and of the EDPB Secretariat resources allocated to complete the tasks listed in Article 75 GDPR, including on Article 64, 65 and 66 GDPR procedures, as well as on litigations.

4.3.1 How much resources (Full-time equivalent*day) does your DPA allocate to participation in EDPB activities?

	FTE*day
2020	N/A
2021	N/A
2022	N/A
2023	600
2024 (Forecast)	600

4.4 Human, technical and financial resources for effective cooperation and participation to the consistency mechanism

4.4.1 How many staff (full-time equivalent) has your DPA?

	FTE	Comments
2020	56	-
2021	54,9	-
2022	70,5	-
2023	72	-
2024 (Forecast)	72	-

4.4.2 What is the budget of your DPA? Please provide the figures (in euro)

	BUDGET (€)
2020	5,77 mio
2021	5,69 mio
2022	7,86 mio
2023	7,38 mio
2024 (Forecast)	7,29 mio

*** 4.4.3 Is your DPA dealing with tasks beyond those entrusted by the GDPR, including under the new EU legislation adopted under the Data Strategy?**

- Yes
- No

*** 4.4.4 Please provide an indicative breakdown between those tasks and those entrusted by the GDPR.**

The Danish DPA is also the national supervisory authority in relation to the Danish Law Enforcement Act, the PNR directive implementing law and a number of EU Information systems (e.g. the Schengen Information System (SIS) and the Visa Information System (SIS)). The Danish DPA is also the designated competent authority for external reporting under the EU Whistleblower Directive. A rough estimate of time spent on GDPR and on other tasks is that more than 90 % of the time is spent on GDPR.

When It comes to new EU legislation adopted under the Data Strategy, such as the AI Act and the DGA, the Danish Government has not yet assumed a decision as to the designation of the competent authority.

4.4.5 Please explain, if needed:

4.4.6 How would you assess the sufficiency of the resources from your DPA from a human, financial and technical point of view?

	Sufficient	Insufficient
* Human Resources	<input type="radio"/>	<input checked="" type="radio"/>
* Financial resources	<input type="radio"/>	<input checked="" type="radio"/>
* Technical Means	<input type="radio"/>	<input checked="" type="radio"/>

* 4.4.7 is your DPA properly equipped to contribute to the cooperation and consistency mechanisms?

- Yes
 No

* 4.4.8 How many persons (FTE) work on the issues devoted to the cooperation and consistency mechanisms?

252

5 Enforcement

5.1 Complaints

5.1.1 The number of complaints (excluding requests for information) received by your DPA.

	2018	2019	2020	2021	2022	2023
Number of Complaints	1478	2416	2676	2237	1817	1328

5.1.2 The number of complaints where your DPA was in the lead

	2018	2019	2020	2021	2022	2023
The number of complaints received directly from complainants	0	3	2	0	0	0
The number of complaints received from another DPA through the OSS.	1	12	8	4	26	11

5.1.3 The number of complaints received by your DPA and forwarded to the lead DPA.

	2018	2019	2020	2021	2022	2023
Number of Complaints	16	35	12	6	5	4

5.1.4 The number of complaints relating to national cases resolved through a decision adopted by your DPA.

	2018	2019	2020	2021	2022	2023
Number of Complaints	700	2282	2382	2341	1956	1541

5.1.5 The number of complaints relating to cross-border cases, resolved through an Article 60 GDPR decision adopted by your DPA[1]. Please indicate a breakdown of the decisions adopted under Article 60(7), (8) or (9) GDPR.

[1] This does not include amicable settlements.

	2018	2019	2020	2021	2022	2023
Number of complaints resolved through an Article 60(7) GDPR decision	0	1	4	3	5	3
Number of complaints resolved through an Article 60(8) GDPR decision	N/A	N/A	N/A	N/A	N/A	N/A
Number of complaints resolved through an Article 60(9) GDPR decision	N/A	N/A	N/A	N/A	N/A	N/A

5.1.6 The total number of complaints resolved through amicable settlement

	2018	2019	2020	2021	2022	2023
Number of Complaints	0	0	0	0	0	0

*** 5.1.7 What kind of communication or request do you qualify as a complaint?**

The Danish DPA has no formal definition of what constitutes a complaint. A complaint is however in most situations a statement by an individual who believes a data controller is processing personal data contrary to the data protection rules and asking the Danish DPA to get involved.

5.1.8 For complaints handled by your DPA which you consider to be closed, provide the average and the median time (in months) from receipt of the complaint (either directly from the complainant or from another DPA) to closure (e.g. by decision or amicable settlement).

	In months
Average Time	3
Median Time	1

5.2 Own-initiative investigations

5.2.1 The number of “own-initiative” investigations launched by your DPA since 25 May 2018

	2018	2019	2020	2021	2022	2023
Number of Complaints	248	120	178	186	202	79

5.2.2 The number of these investigations that you consider to be closed. Provide the average and the median time (in months) from launch of the investigation to closure.

	2018	2019	2020	2021	2022	2023
Average Time	13	16	9	9	6	1
Median Time	12	18	8	7	5	1
Total number of closed investigations	163	111	144	173	157	33

5.3 Corrective measures

5.3.1 The number of decisions in which you used your corrective powers [1]

[1] Please reply per number of decisions, not per number of corrective powers used per decision. For instance, if one decision ordered both a ban and a fine, please reply "1".

	2018	2019	2020	2021	2022	2023
Number of Decisions	N/A	N/A	N/A	N/A	N/A	N/A

5.3.2 The number of times you used any other corrective power than fines. Please specify the type of measure by reference to Article 58(2) GDPR

	2018	2019	2020	2021	2022	2023
Issue warnings to a controller or processor that intended processing operations are likely to infringe provisions of this Regulation	N/A	N/A	N/A	N/A	N/A	N/A
Issue reprimands to a controller or a processor where processing operations have infringed provisions of this Regulation	N/A	N/A	N/A	N/A	N/A	N/A
Order the controller or the processor to comply with the data subject's requests to exercise his or her rights pursuant to this Regulation	N/A	N/A	N/A	N/A	N/A	N/A
Order the controller or processor to bring processing operations into compliance with the provisions of this Regulation, where appropriate, in a specified manner and within a specified period	N/A	N/A	N/A	N/A	N/A	N/A
Order the controller to communicate a personal data breach to the data subject	N/A	N/A	N/A	N/A	N/A	N/A
Impose a temporary or definitive limitation including a ban on processing	N/A	N/A	N/A	N/A	N/A	N/A
Order the rectification or erasure of personal data or restriction of processing pursuant to Articles 16, 17 and						

18 and the notification of such actions to recipients to whom the personal data have been disclosed pursuant to Article 17 (2) and Article 19	N/A	N/A	N/A	N/A	N/A	N/A
Withdraw a certification or to order the certification body to withdraw a certification issued pursuant to Articles 42 and 43, or to order the certification body not to issue certification if the requirements for the certification are not or are no longer met	0	0	0	0	0	0
Order the suspension of data flows to a recipient in a third country or to an international organisation.	N/A	N/A	N/A	N/A	N/A	N/A

5.3.3 The number of fines you imposed

	2018	2019	2020	2021	2022	2023
Number of Fines	0	0	0	0	0	0

5.3.4 Please provide examples of the type of circumstances and infringements that normally resulted in a fine and include the provisions of the GDPR breached.

Please be informed that the legal system of Denmark does not allow for administrative fines as set out in the GDPR. It is the national courts (and not the Danish DPA) who are competent in this regard. Please see recital 151 GDPR.

So far, the courts have ruled to impose a fine in the following cases.

(1) A municipality had violated Article 32. The DK SA became aware of the case when the municipality reported a personal data breach. The case revealed that the municipality has had a consistent practice, according to which minutes of meetings containing personal data of sensitive and protective nature, including those of citizens under the age of 18, had been uploaded to the municipality's employee portal. On the employee portal there was potential access to the information for a large part of the municipality's employees, regardless of whether the employees in question were working with this type of cases. The court found, that the municipality had violated Article 32, and imposed a fine of 50.000 DKK (app 6.670 EUR) considering the recommendation of the DK SA. The DK SA recommended a fine of 50.000 DKK.

(2) A municipality had violated Article 33 and 34. The municipality had by mistake sent a decision via "Digital Post" containing information on the whereabouts of the complainant and the complainant's child to the father, even though they had protected address. The municipality had not reported the breach to the DK SA, nor had the complainant and the child been informed about the breach in accordance with Article 34.

(3) A municipality had violated article 32. In this case an employees' laptop was stolen, and the municipality notified the DK SA of this in accordance with Article 33. The laptop contained personal data of around 1.600 persons, special categories of personal data, and social security numbers. The personal data was stored locally on the laptop. The laptop was not encrypted, and the DK SA found out, that the municipality in general did not encrypt the employees' laptops. The court found, that the municipality had violated Article 32, and imposed a fine of 50.000 DKK (app. 6.670 EUR) considering the recommendation of the DK SA. The DK SA recommended a fine of 50.000 DKK.

(4) A state authority had violated Article 33 and Article 32. In this case the state authority returned a USB drive to a complainant, the USB drive was not encrypted, and the complainant did not receive the USB drive. On the USB drive were around 800 pages with special categories of personal data and confidential information about the complainant. The state authority did not notify the DK SA of the breach, and did not have procedures for the use and handling of portable devices, and did not encrypt USB drives in general. The DK SA recommended a fine of 100.000 DKK (app. 13.399,23 EUR), and the state authority adopted the fine.

(5) A municipality had violated Article 32. In this case an employees' laptop was stolen, and the municipality notified the DK SA of this in accordance with Article 33. The laptop contained a program that was used to ensure an overview of the municipality's housing resources and contained information on the names and personal identification numbers of about 100 people with reduced physical and/or mental functional capacity. The personal data was stored locally on the laptop. The hard drive was not encrypted, and the DK SA found out, that the municipality in general did not encrypt the employees' computers. The court found, that the municipality had violated Article 32, and imposed a fine of 75.000 DKK (app. 10.049,42 EUR) considering the recommendation of the DK SA. The DK SA recommended a fine of 75.000 DKK.

(6) A private entity kept personal data of 500.000 customer profiles for a longer period than the deletion

deadline the private entity had decided was appropriate. The High Court found, that the private entity had violated Article 5, 1 (e) and Article 5, 2. The High Court imposed a fine of 1 mio. DKK (app. 133.992,33 EUR) upon the private entity considering the recommendation of the DK SA in relation to the calculation of the fine. The DK SA recommended a fine of 1,1 mio. DKK (app. 147.391,56 EUR).

(7) A private entity disclosed data relating to criminal offences about a former employee to clients. The court imposed a fine of 100.00 DKK (app. 13.333,33 EUR). The DK SA recommended a fine of 400.000 DKK.

Other minor cases which have been sanctioned by a fine by the courts are cases concerning natural persons disclosure of personal data relating to health or data relating to criminal offences and natural persons misuse of their access to public registers. These cases are typically sanctioned with a fine between 2.500 DKK (app. 333,33 EUR) and 20.000 DKK (2.666,66 EUR).

5.3.5 The average and median level of fines and the total amount of fines imposed by your DPA

	2018	2019	2020	2021	2022	2023
Total amount of fines (€)	0	0	0	0	0	0
Average level of fine	0	0	0	0	0	0
Median level of fine	0	0	0	0	0	0

5.4 Challenges to decisions in national courts

5.4.1 How many of your decisions finding an infringement of the GDPR have been challenged in national courts? Please provide the absolute figure and the percentage.

	Absolute figure	%
Decisions finding an infringement of GDPR challenged in national court	0	0
Successful challenges	0	0

*** 5.4.2 Where challenges were successful, what were the reasons of the national courts?**

Please see our answer under 5.3.4.

6 Promoting awareness of rights and obligations

*** 6.1 Provide details of activities undertaken (publication of guidance, publicity campaigns, etc.) to promote awareness of data protection rights and obligations among the public and data controllers and processors. Where relevant, provide links to materials.**

Since the entry into force of the GDPR, the Danish SA has published 39 guidelines. They can be found on the Danish DPA's website here: <https://www.datatilsynet.dk/hvad-siger-reglerne/vejledning/vejledninger-i-pdf-format>. The guidelines are – depending on the topic - targeted at the data subject or the data controller and processor. The Danish DPA is continuously updating the Danish DPA's website with guidance, recommendations and also decisions from the DPA. The DPA has also launched a big tv-campaign targeted data subjects in general to inform them about the importance of the right to data protection – even if they have nothing to hide. <https://www.datatilsynet.dk/borger/hemmeligheder>

Furthermore, the Danish DPA has started a podcast, which today has 25 episodes. In each episode, different employees from the Danish DPA talk about a topic that is particularly relevant for small and medium-sized organisations. The podcast episodes can be found here: <https://www.datatilsynet.dk/hvad-siger-reglerne/podcast>

To the smaller organisations, the Danish DPA has created a “GDPR-universe” on the DPA's website. The “universe” is built on the idea of providing the smaller organisations with easy-to-understand examples and material by giving them 7 steps to follow to better understand the rules. The “universe” can be found here: <https://www.datatilsynet.dk/hvad-siger-reglerne/vejledning/gdpr-univers-for-smaa-virksomheder>

The Danish DPA is also meeting formally with stakeholders in two contact committees, we have established. We meet four times a year to discuss data protection matters, twice with the industry and twice with the Danish municipalities and regions. Furthermore, the Danish DPA has created another contact committee for stakeholders from both the industry and the public sector who are interested in following our international work. In these meeting the Danish DPA informs about pending cases and current issues in the international area of data protection. We also have a contact committee with stakeholders from the scientific world where we discuss the rules on data protection in relation to scientific research and statistic.

To promote awareness about data protection amongst children, the Danish DPA has created a game called “the Data Challenge”. The game is available for free on the Danish DPA's website and comes along with a teacher's guide and a PowerPoint presentation for teaching, so it can be used in schools as well. The game

is available at the Danish DPA's website here: <https://www.datatilsynet.dk/english/data-challenge>. The game won two prizes during GPA 2022 in Istanbul (Education & Awareness and Peoples Choice).

7 Additional Policy Messages

In the previous GDPR report, the EDPB provided general policy messages, highlighting additional areas and topics that the EDPB considered worth mentioning. For example, the EDPB underlined the need to provide DPAs with sufficient resources, acknowledged the challenges of SMEs and addressed the topic of international transfers more in depth, among others.

*** 7.1 Would you like the future EDPB GDPR report to include an additional section on General policy messages?**

- Yes
 No

*** 7.2 Please add the topics and/or policy messages you would like to include in the EDPB report. Elaborate the reasons why, in your view, such topic should be included.**

The Danish DPA would like the report to contain a passage about the importance when the Commission is proposing legal acts in fields that are overlapping the GDPR to avoid any fragmentation in the interpretation but also in the supervisory role. It causes a lot of confusion and distress in the society and we as DPA are using a lot of resources also due to this.

Contact

[Contact Form](#)

