



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

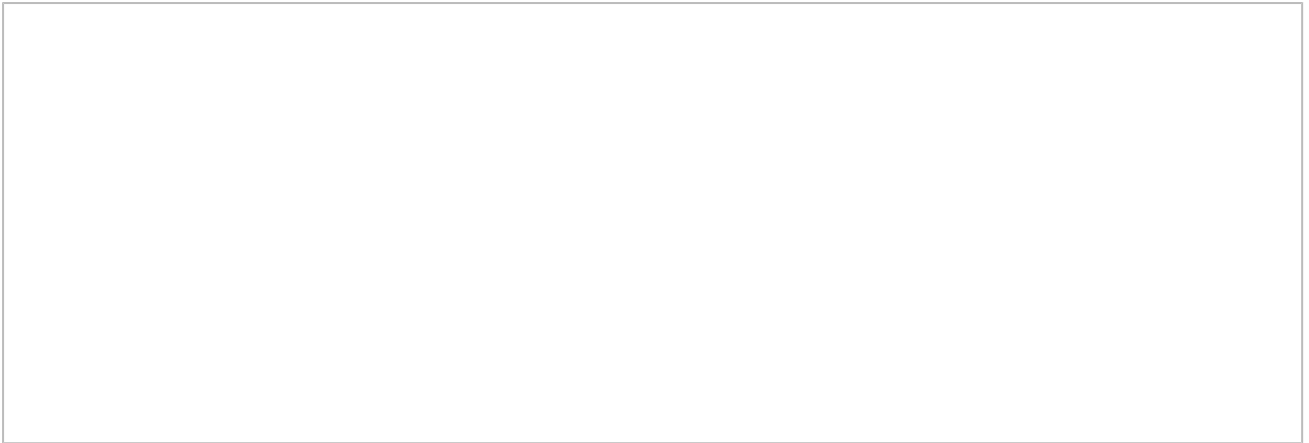
*** 3.3 The Commission is interested in the views of the Board on the third countries for which enforcement cooperation agreements under Article 50 GDPR should be prioritised, in particular in light of the volume of data transfers, role and powers of the third country's supervisory authority and the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

Ukraine

Estonia has very close information exchange with Ukraine due to the large number of Ukrainian war refugees residing in Estonia. For this reason there is a large amount of data transfers, mostly regarding the sphere of social services (pensions, information about students etc).

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?



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?

1

* 4.1.1.5 Which topics were addressed?

Lack of legal analysis (and thoroughness of investigation); failure to identify GDPR infringements (lack of legal basis for personal data processing, transparency issues)

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

The aforementioned proceeding is still ongoing.

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?

Necessity has not arisen in specific procedures.

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

Article 61 procedure is a very useful tool to exchange important information and to be informed about the status of the proceedings.

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?**

There has been no clear necessity/relevance so far.

*** 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?**

There has been no clear necessity/relevance so far.

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	1
2021	1
2022	1,5
2023	3-4
2024 (Forecast)	4

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	21	-
2021	21	-
2022	21	-
2023	33	-
2024 (Forecast)	33	-

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

	BUDGET (€)
2020	751 000 EUR
2021	851 000 EUR
2022	975 000 EUR
2023	1 449 000 EUR
2024 (Forecast)	1 449 000 EUR

*** 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.**

Yes, we are also dealing with:

- 1) Freedom of Information (FOI) matters and re-use of public sector information;
- 2) Law Enforcement Directive and its' implementing act;
- 3) e-Privacy Directive implementation law;
- 4) Coordinated supervision of EU agencies and large scale systems together with the EDPS (ie. Europol, SIS II, VIS, Eurodac, CIS, etc.) ;
- 5) coordinating state and local government databases/registers;
- 6) Scientific research specific laws (being member of Estonian Committee on Bioethics and Human Research, member of Statistical Council);
- 7) Responsibilities under Data Governance Act as the competent supervisory authority (regarding data altruism and data intermediation services)

As for the staff, we don't have a very clear distinction between these tasks and those entrusted by the GDPR.

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?**

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	465	619	716	707	947	759

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	0	1	0	0	1
The number of complaints received from another DPA through the OSS.	3	10	15	14	11	8

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	0	3	5	6	4	7

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	462	606	695	687	927	389

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	2	3	6	2	9
Number of complaints resolved through an Article 60(8) GDPR decision	0	0	0	0	0	0
Number of complaints resolved through an Article 60(9) GDPR decision	0	0	0	0	0	0

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?**

Any communication where a data subject indicates that the processing of personal data relating to him or her infringes the GDPR.

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	ca 3
Median Time	ca 3

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	15	29	28	30	102	56

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	n/a	n/a	n/a	n/a	n/a	n/a
Median Time	n/a	n/a	n/a	n/a	n/a	n/a
Total number of closed investigations	15	25	28	29	37	14

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	19	81	293	114	332	330

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

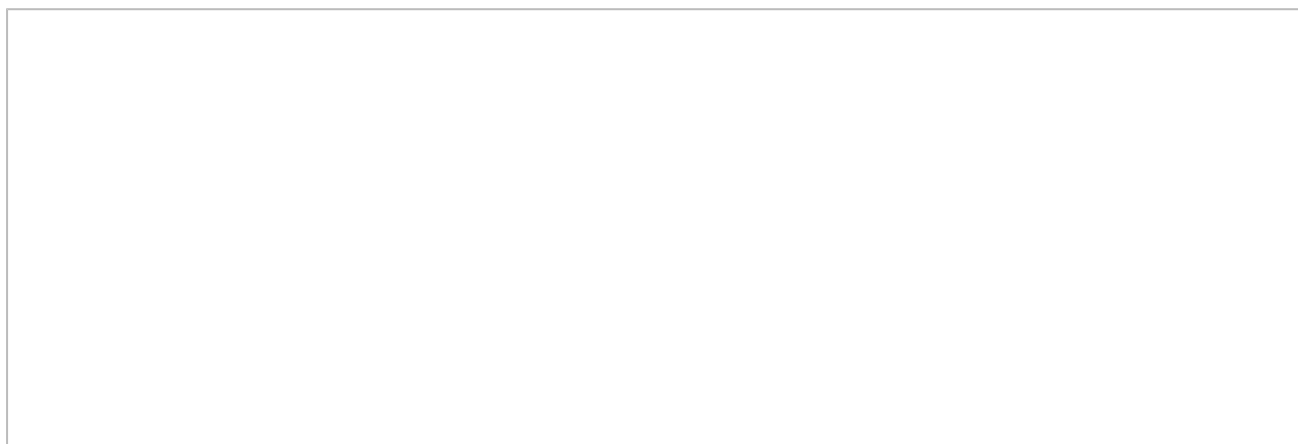
	2018	2019	2020	2021	2022	2023
Issue warnings to a controller or processor that intended processing operations are likely to infringe provisions of this Regulation	10	62	223	214	215	244
Issue reprimands to a controller or a processor where processing operations have infringed provisions of this Regulation	0	0	21	50	53	44
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	9	14	37	30	52	41
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	n/a	n/a	n/a	n/a	n/a	n/a
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	5	12	10	12	1

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.

A large, empty rectangular box with a thin black border, intended for the user to provide examples of circumstances and infringements that result in fines under the GDPR. The box is currently blank.

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	n/a	428	484	748	200 000
Average level of fine	0	n/a	47,6	53,8	93,5	200 000
Median level of fine	0	n/a	48	44	70	200 000

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	37	17
Successful challenges	4	ca 10

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

(The challenges reflected in the statistics were successful but the challenges were based on procedural /other grounds and not based on interpretation/analysis of the GDPR and the DPA-s assessments in that regard).

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.

Estonian DPA has published several guidances on different topics, we publish important local and international news regarding data protection matters on our website. We also started a podcast this year to raise general awareness regarding important data protection topics and reach a wider audience. We have also hosted several conferences, seminars and training courses on relevant topics and published educational videomaterial. Estonian DPA also has an informational call line which is open from Monday to Thursday to answer different questions and offer advice to people regarding data protection matters. The DPA also circulates letters targeted to specific types of data controller/processors to raise awareness in important data protection matters (e.g schools, insurance agencies).

Some examples:

Guide on legitimate interest (in Estonian): https://www.aki.ee/sites/default/files/dokumendid/oigustatud_huvi_juhend_aki_26.05.2020.pdf

Videorecording of a web conference held on the topic of privacy in employment situations: <https://www.youtube.com/watch?v=ctAfUpFZsul&list=PLkGThf5hS1zywi1QC0retZiTLVvmRu2DE>

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 need to provide DPAs with sufficient resources is still an important topic, especially in the light of the new GDPR enforcement act which will greatly influence the management of DPAs obligations. We suggest that this could be somehow incorporated into the next questionnaire.

Contact

[Contact Form](#)