



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 ?

Singapore and India.

* 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.

Consideration should be given to Article 50 agreements with US and UK to allow for greater enforcement cooperation.

3.4 Reasons for prioritisation if there should be any:

See above

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?

Tools need to be implementable in practice and capable of addressing legal considerations when sharing while also ring-fenced and transparent to organisations that may be affected. High-level, aspirational agreements are not sufficient. Tools need to be actual practical tools.

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

4.1.2 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?**

N/A

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

We mainly use VMA.

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

* 4.1.3.3 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?

We have used informal communications channels to good effect.

* 4.1.3.5 What is your experience when using Joint operations - Article 62 procedure?

We found it to be very impractical. There was some difficulties with language and some challenges in agreeing protocols.

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) does your DPA allocate to participation in EDPB activities?

	FTE
2020	16
2021	16
2022	16
2023	16
2024 (Forecast)	17

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	145	-
2021	190	-
2022	196	-
2023	220	-
2024 (Forecast)	260	-

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

	BUDGET (€)
2020	16900000
2021	19100000
2022	23200000
2023	26600000
2024 (Forecast)	27700000

*** 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.**

In addition to the GDPR & Data Protection Act 2018:
Law Enforcement Directive, as transposed under the Data Protection Act 2018
e-Privacy Directive 2011;
Schengen Information System;
Eurodac;
Digital Services Act; and
Digital Markets Act.

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 checked="" type="radio"/>	<input type="radio"/>
* Financial resources	<input checked="" type="radio"/>	<input type="radio"/>
* Technical Means	<input checked="" type="radio"/>	<input 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?

200

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	2864	7215	4718	3149	2710	1962

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	70	180	105	100	55	25
The number of complaints received from another DPA through the OSS.	86	220	201	170	114	63

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	21	97	48	30	48	26

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	576	3987	3856	2932	2097	1580

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	136	329	200	76	145	172
Number of complaints resolved through an Article 60(8) GDPR decision	9	25	16	8	10	1
Number of complaints resolved through an Article 60(9) GDPR decision	-	-	1	0	2	0

5.1.6 The total number of complaints resolved through amicable settlement

	2018	2019	2020	2021	2022	2023
Number of Complaints	115	623	581	636	638	578

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

To constitute a complaint, and therefore trigger the DPC's statutory complaint-handling obligations, the matter must fall under one of the following headings:

- A complaint from an individual relating to the processing of their own personal data;
- A legally authorised person or entity complaining on behalf of an individual (e.g. a solicitor on behalf of a client or a parent/guardian on behalf of their child); or
- Advocacy groups which meet the requirements to act on behalf of one or more individuals under the GDPR, LED and the Data Protection Act 2018.

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	5.5
Median Time	3.0

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	40 large scale investigations	20 large scale investigations	13 large scale investigations	10 large scale investigations	3 large scale investigations	2 large scale investigations

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	0	12	15	26	23	39
Median Time	0	12	16	25	21	32
Total number of closed investigations	0	1	9	6	14	9

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	The DPC's database doesn't extract this information and there's insufficient time for the DPC to trawl through the thousands of cases listed above to provide this information.	-	-	-	-	-

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	The DPC's database doesn't extract this information and there's insufficient time for the DPC to trawl through the thousands of cases listed above to provide this information.	-	-	-	-	-
Issue reprimands to a controller or a processor where processing operations have infringed provisions of this Regulation	-	-	-	-	-	-
Order the controller or the processor to comply with the data subject's requests to exercise his or her rights pursuant to this Regulation	-	-	-	-	-	-
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	-	-	-	-	-	-
Order the controller to communicate a personal data breach to the data subject	-	-	-	-	-	-
Impose a temporary or definitive limitation including a ban on processing	-	-	-	-	-	-

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	-	-	-	-	-	-
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	-	-	-	-	-	-
Order the suspension of data flows to a recipient in a third country or to an international organisation.	-	-	-	-	-	-

5.3.3 The number of fines you imposed

	2018	2019	2020	2021	2022	2023
Number of Fines	0	0	9	10	29	11

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.

Examples in the following decisions can be found on the DPCs website: <https://dataprotection.ie/>

Tusla Child and Family Agency - April 2020

Tusla Child and Family Agency - May 2020

Tusla Child and Family Agency - August 2020

Health Service Executive - August and September 2020

University College Dublin - December 2020

Twitter International Company ('TIC') - December 2020

Irish Credit Bureau DAC March 2021

WhatsApp Ireland Ltd August 2021

MOVE Ireland August 2021

Teaching Council December 2021

Limerick City and County Council December 2021

Slane Credit Union January 2022

Bank of Ireland Group plc March 2022

Meta Platforms Ireland Limited (formerly known as Facebook Ireland Limited) - March 2022

Meta Platforms Ireland Limited, formerly Facebook Ireland Limited, and the "Instagram" social media network September 2022

Meta Dataset - November 2022

Virtue Integrated Elder Care Ltd ("VIEC") - December 2022

A&G Couriers Limited T/A Fastway Couriers (Ireland) - December 2022

Inquiry into Meta Platforms Ireland Limited - December 2022

Inquiry into Kildare County Council - January 2023

Inquiry into WhatsApp Ireland Ltd. - January 2023

Inquiry into Centric Health Ltd. ("Centric") - February 2023

Inquiry into Bank of Ireland 365 ('BOI') - February 2023

Inquiry concerning data transfers from the EU/EEA to the US by Meta Platforms Ireland Limited for its Facebook service - May 2023

Inquiry concerning the Department of Health - June 2023

Inquiry into Galway County Council - August 2023

Inquiry into TikTok Technology Limited - September 2023

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	785,000	225,261,500	1,077,583,000	1,551,782,500
Average level of fine	-	-	-	-	-	-
Median level of fine	-	-	-	-	-	-

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	-	-
Successful challenges	-	-

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

1. There has been 20 challenges regarding GDPR decisions in national courts.
2. Of these 20 challenges, 12 are currently still pending before the courts.
3. There has currently been 0 successful challenges before the courts, of the 8 challenges that are closed.

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.**

ARC Project

In 2022 the DPC's successful participation in the EU-funded ARC project came to an end. The ARC Project had its inception in 2019, when the Croatian Data Protection Authority, AZOP, submitted a proposal to the EU Commission seeking funding for a project that would focus on supporting the compliance efforts of small-to-medium enterprises; specifically because the often limited resources of SMEs presented an additional challenge when complying with data protection legislation.

Funding was awarded on the basis of a consortium approach, and AZOP approached the DPC and Vrije University, Brussels with an invitation to join them in their efforts to support SMEs. The DPC recognised this as an excellent opportunity for international cooperation and for providing support to one of its own key stakeholder groups. Having taken the decision to join the consortium, the project was formally launched in February 2020, with a full programme planned of national and international engagements and workshops.

"...assessed as very good and no shortcomings were identified. The content of the deliverables is satisfactory and of high quality, despite the circumstances caused by the pandemic. The project can have long-term impact on the project groups and the society, as well as on EU Legislation and/or policies and can serve as a pool of knowledge for other Data Protection Authorities as well."

Further examples of guidance and useful resources on the DPC website include, annual reports, podcasts, blogs, and other DPC publications can be found on our website <https://dataprotection.ie/> which is continuously updated.