



## 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

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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.

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

## 2 Supervisory Authority

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### \* 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

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\* 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.

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3.4 Reasons for prioritisation if there should be any:

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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?

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## 4 Chapter VII

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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.

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[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](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?

It was not necessary so far.

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

We have used the Article 61 procedure for the exchange of documents in cross-boarder cases as well as for asking the other SAs a question that came up in one of our own investigations. So far our experience with this procedure is very good.

## 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?**

It was not necessary so far.

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

We are taking part in the strategic case of Smart TVs (Art. 62 procedure). This is of great value for us, not only because of the intensified close and good cooperation with colleagues from other authorities, but also because we are getting valuable insights from the investigation of such devices. There is no controller in the field of smart TVs in LI, but most of the people here do have such devices at home. Many data subjects in LI are therefore affected by the data processing performed by such controllers. Should we ever have to deal with a case in this field, we now can rely on sound knowledge of the technologies and data processing involved.

## 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            | 2   |
| 2021            | 2   |
| 2022            | 2   |
| 2023            | 2   |
| 2024 (Forecast) | 2   |

**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            | 7   | -        |
| 2021            | 7   | -        |
| 2022            | 7   | -        |
| 2023            | 7   | -        |
| 2024 (Forecast) | 7   | -        |



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

|                 | BUDGET (€) |
|-----------------|------------|
| 2020            | 1'252'000  |
| 2021            | 1'264'000  |
| 2022            | 1'248'000  |
| 2023            | 1'269'000  |
| 2024 (Forecast) | 1'259'000  |

**\* 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.**

So far, we only perform tasks relating to Schengen-regulations, the LED, the Directive 2002/58/EC and the Regulation (EU) 2021/1232. All of them have all been incorporated in the EEA Agreement. However, the effort of dealing with these tasks for the LI SA is minor: 95% GDPR vs. 5% other.

The new regulations under the European Data Strategy have not yet been incorporated in the EEA Agreement. Therefore we do not perform any tasks in this context yet. However, it is expected that the LI SA will have to take on tasks in this context. We have requested additional resources for all the tasks we might be entrusted with, as we will not be able to deal with them with the current resources.

**4.4.5 Please explain, if needed:**

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**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?

0.5

## 5 Enforcement

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### 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 | 47   | 41   | 63   | 58   | 40   | 38   |

**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    | 0    | 0    | 0    | 0    |
| The number of complaints received from another DPA through the OSS. | 1    | 3    | 2    | 2    | 3    | 0    |

**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    | 0    | 1    | 1    | 0    | 1    |

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 | 0    | 11   | 9    | 10   | 14   | 12   |

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 <b>Article 60(7)</b> GDPR decision | 0    | 3    | 0    | 0    | 0    | 0    |
| Number of complaints resolved through an <b>Article 60(8)</b> GDPR decision | 0    | 0    | 0    | 0    | 0    | 1    |
| Number of complaints resolved through an <b>Article 60(9)</b> 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 | 32   | 18   | 36   | 32   | 18   | 17   |



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

We accept any communication to us (by phone, e-mail, letter or electronic form), in which a complainant states that he/she wants to file a complaint with the SA. If we are not sure, whether this is the case, we ask the complainant to specify his or her request.

**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 | 12        |
| Median Time  | 12        |

**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 | 0    | 10   | 9    | 2    | 22   | 1    |

**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    | 0    | 6    | 6    | 6    | 6    |
| Median Time                           | 0    | 0    | 6    | 6    | 6    | 6    |
| Total number of closed investigations | 0    | 0    | 10   | 9    | 6    | 19   |

## 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 | 0    | 8    | 5    | 13   | 8    | 17   |

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  | 0    | 0    | 0    | 0    | 0    | 0    |
| Issue reprimands to a controller or a processor where processing operations have infringed provisions of this Regulation  | 0    | 1    | 1    | 3    | 7    | 7    |
| Order the controller or the processor to comply with the data subject's requests to exercise his or her rights pursuant to this Regulation  | 0    | 3    | 0    | 0    | 1    | 0    |
| 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 | 0    | 4    | 4    | 12   | 4    | 14   |
| Order the controller to communicate a personal data breach to the data subject  | 0    | 0    | 0    | 0    | 0    | 0    |
| Impose a temporary or definitive limitation including a ban on processing   | 0    | 1    | 0    | 5    | 0    | 1    |

|   |   |   |   |   |   |   |
|---|---|---|---|---|---|---|
| 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      | 0 | 0 | 0 | 0 | 0 | 0 |
| 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.   | 0 | 0 | 0 | 1 | 0 | 0 |

### 5.3.3 The number of fines you imposed

|                 | 2018 | 2019 | 2020 | 2021 | 2022 | 2023 |
|-----------------|------|------|------|------|------|------|
| Number of Fines | 0    | 0    | 2    | 0    | 0    | 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.**

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### 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    | 9'000 | 0    | 0    | 500  |
| Average level of fine     | 0    | 0    | 4'500 | 0    | 0    | 500  |
| Median level of fine      | 0    | 0    | 4'500 | 0    | 0    | 500  |

## 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 | 11              | 18.6 |
| Successful challenges  | 1               | 1.7  |

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

The reason for the one successful challenge at a national court was the fine issued by the SA. The court was of the opinion that a fine should be the sanction of last resort. A controller should first be reprimanded and a fine be threatened for the case of non-compliance.

## 6 Promoting awareness of rights and obligations

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**\* 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.**

Activities:

- Publication of guidance on website and in a newsletter
- Lectures / presentations in companies, organisations, associations, etc.
- Workshops for data protection professionals
- Networking meetings and lectures / presentations for DPOs
- Presentations and panel discussions for the general public (data protection day)
- Events at movie theaters incl. panel discussions for the general public
- Lectures / presentations at schools (teachers, parents, students)
- Courses /lectures at university
- Data protection survey in population of Liechtenstein
- Media coverage / articles about data protection issues
- etc.