



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.

Australia

3.4 Reasons for prioritisation if there should be any:

The main reason is that there have been economic and trading relations between the EU and Australia.

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 don't have other suggestions.

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

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

DPAs shared good practices and expertise in the field of interest. The information provided was consolidated and used to investigate the certain case.

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?

We did not have the basis to start the Joint Operation, as the processors and controllers of data are established in the national country and the data processed can affect just one country's data subjects. Another reason is that there is a lack of clarity regarding the application of the procedures.

* 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?

Please see the answer above.

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	The Office of the Inspector of Journalist Ethics (hereinafter – The Office) 1; State Data Protection Inspectorate of the Republic of Lithuania (hereinafter – The Inspectorate) 2
2021	The Office - 1 The Inspectorate - 2

2022	The Office - 1 The Inspectorate - 3
2023	The Office - 1 The Inspectorate - 3
2024 (Forecast)	The Office - 1 The Inspectorate - 3

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	The Office -15 The Inspectorate - 31	3 incl. Head of the OIJE dealt with implementation on the GDPR
2021	The Office -17 The Inspectorate - 35	4 incl. Head of the OIJE dealt with implementation on the GDPR
2022	The Office -16 The Inspectorate - 44	4 incl. Head of the OIJE dealt with implementation on the GDPR
2023	The Office -17 The Inspectorate - 45	4 incl. Head of the OIJE dealt with implementation on the GDPR
2024 (Forecast)	The Office -18 The Inspectorate - 46	4 incl. Head of the OIJE dealt with implementation on the GDPR

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

	BUDGET (€)
2020	The Office - 369000 The Inspectorate - 1201,0 thous.
2021	The Office - 462000 The Inspectorate - 1176,0 thous.
2022	The Office - 587000 The Inspectorate - 1505,0 thous.
2023	The Office - 687000 The Inspectorate - 1592,0 thous.
2024 (Forecast)	The Office - 759000 The Inspectorate - 1727,0 thous.

*** 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 Office: The Office of the Inspector of Journalists' Ethics (OIJE) implements the GDPR when data is processed for journalistic purposes and the purposes of academic, artistic or literary expression. The implementation of the GDPR covers up to 45 percent of the other functions set to the OIJE by the Law on Provision Information to the Public.

The Inspectorate: Supervisory authority for the Directive (EU) 2016/680 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data, and repealing Council Framework Decision 2008/977/JHA.

Competent national authority for the enforcement of the Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications).

Competent authority for the data intermediation services and competent authority for the registration of data altruism organizations under the Regulation (EU) 2022/868 of the European Parliament and of the Council of 30 May 2022 on European data governance and amending Regulation (EU) 2018/1724 (Data Governance Act).

Will be designated as competent authority for supervision of Articles 26(1)(d), 26(3), 27, 28(2) and (3) of the Regulation (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a Single Market For Digital Services and amending Directive 2000/31/EC (Digital Services Act).

Cooperation and exchange of information with competent authorities of the Directive (EU) 2016/1148 of the European Parliament and of the Council of 6 July 2016 concerning measures for a high common level of security of network and information systems across the Union about personal data breaches resulting from security incidents.

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?

3

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	713	939	1223	1276	992	1104

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.	3	1	5	12	65	35

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	3	15	7	10	14	12

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	We have no statistics	We have no statistics	We have no statistics	We have no statistics	We have no statistics	We have no statistics

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	0We have no statistics	We have no statistics	We have no statistics	We have no statistics	1	2
Number of complaints resolved through an Article 60(8) GDPR decision	We have no statistics	We have no statistics	We have no statistics	We have no statistics	We have no statistics	4
Number of complaints resolved through an Article 60(9) GDPR decision	We have no statistics	We have no statistics	We have no statistics	We have no statistics	We have no statistics	50

5.1.6 The total number of complaints resolved through amicable settlement

	2018	2019	2020	2021	2022	2023
Number of Complaints	3	6	2	5	31	44

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

The request or communication is qualified as a complaint if: (a) the data subject considers that the processing of personal data relating to him or her infringes the GSPR and (b) it complies with the requirements set in Article 24 (5) of the Law on Legal Protection of Personal Data.

If a person reports about violations committed by a data controller which are not related to the person, Lithuanian SA initiates monitoring actions or performs an inspection.

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	The Office - 5 The Inspectorate - 3,5
Median Time	The Office - 7

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	141	112	104	16	44	38

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	we have no statistics	we have no statistics	we have no statistics	we have no statistics	we have no statistics	we have no statistics
Median Time	we have no statistics	we have no statistics	we have no statistics	we have no statistics	we have no statistics	we have no statistics
Total number of closed investigations	0we have no statistics	we have no statistics	we have no statistics	we have no statistics	we have no statistics	we have no statistics

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	9	260	226	243	308	176

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	2	1	2
Issue reprimands to a controller or a processor where processing operations have infringed provisions of this Regulation	9	115	106	154	174	92
Order the controller or the processor to comply with the data subject's requests to exercise his or her rights pursuant to this Regulation	5	32	14	57	19	12
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	109	94	57	94	54
Order the controller to communicate a personal data breach to the data subject	0	2	1	0	0	1
Impose a temporary or definitive limitation including a ban on processing	0	22	15	14	31	11

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	2	2	5	6	4
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	1	0	0	0	0

5.3.3 The number of fines you imposed

	2018	2019	2020	2021	2022	2023
Number of Fines	0	6	20	26	8	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.

Mostly fines are imposed for non-cooperation with the Inspectorate, for Non-compliance with orders, for failure to ensure organizational and technical measures, for unlawful processing of data (for example biometric data processing without lawful processing conditions, unlawful processing of data in information systems, etc.).

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	68895	47125	173163	84568	62800
Average level of fine	0	11483	2356	6660	4228,4	5709
Median level of fine	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	The Office - 18 The inspectorate does not have statistics	The Office - 13
Successful challenges	The Office - 5 The inspectorate does not have statistics	The Office - 4

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

The main reasons of the court are as follows:

Administrative case No. eA-978-629/2023

In the present case, it has been established that the applicant made public the private message received from the third party in a Post (via the social network Facebook) and in a Publication (via a personal website). Neither the Court of First Instance nor the Court of Appeal found that the applicant had obtained the third party's consent or had any other lawful grounds for publishing the third party's data on his personal Facebook account and on his website. The fact that a personal message sent by the third party may have contained inappropriate (negative) information does not in itself confer a right to publicly disseminate the personal data of the author without a legitimate basis or without the consent of that person. The Court agrees with the assessment of the Office and the Court of First Instance that the applicant's aim of making public the content of the negative message could have been achieved without disclosing the data of the third party. The Supreme Administrative Court of Lithuania, based on the concepts of a disseminator and a producer of public information, while at the same time taking into account the development of information technologies, their evolution and the changes in social relations resulting from this process, has clarified that a particular social networking account fulfils the criteria of a means of information society information, and that the applicant, by publishing the information on his personal social networking account on Facebook, is liable for the legitimacy of the information published by the information.

Administrative case No. I2-520-931/2023

The Court found that in the present case there was a public interest in informing the public about the number of cases of COVID-19 detected in the ambulance station, but according to the Court's assessment, there was no public need for the public to be informed about the state of health of the head of the Panevėžys City Ambulance Station. The purpose of the publication could have been achieved without disclosing the data of the third interested person, and the information in question must be regarded as superfluous.

Administrative case No eA-1125-821/2023

The Chamber of Judges agrees with the position of the defendant and the Court of First Instance that the publication of the personal data (image) of the third party's daughter is disproportionate to the aim pursued, since the aim of the post on the applicant's personal Facebook account, to discuss the issue of masks worn in educational establishments, could have been achieved without the publication of superfluous data, i.e. photographs of the underage children. The applicant's decision to publish photographs of minor children in certain circumstances and for certain purposes does not remove the protection of that data and does not remove the applicant's obligation as a producer/disseminator of public information to publish private information only with the consent of the individual or his/her parents, while taking into account the enhanced protection of the interests of the data subject, namely the minor child.

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.

The Office: The activities to promote awareness of data protection rights and obligations are intensively carried out. As an example, the European Commission funded project ConCon (No.101005477, REC) aimed at removing the tension amid data protection and freedom of expression and information was implemented during 2021-2023. The project proactively engaged media entities, social media users, scientists, public authorities and the general public, providing them with free access to innovative tools and materials for ensuring GDPR compliance and balance between personal data protection and freedom of expression and information. Project achieved a very high level of engagement, benefiting a significant number of individuals from target groups across various sectors and empowering the target groups with the skills and knowledge required to strike a balance between these two fundamental freedoms. As a result, the project significantly increased data protection awareness in journalism, public administration, social media and academia.

The main objectives of the Project were as follows: (1) to raise awareness on the responsibility to protect personal data for social media users via creation and dissemination of developed material (incl. video clips) through variety of social network canals, (2) to raise awareness on the responsibility of those who control personal data and are mandated to provide information related to the public interest (esp. public authorities) to balance data protection requirements with the freedom of information, (3) to ensure that the protection of personal data is fulfilled in conformity with journalists' right to collect and impart information (4) to identify common security and technical issues related to data protection in journalistic practice and prepare practical recommendations (e-tutorial) on the implementation of duties of data controllers acting for journalistic purposes, (5) to develop and launch mobile application, (6) to raise awareness on how to apply the GDPR in context of processing personal data for the academic and research purposes. The guidelines created while implementing the project activities are available via this links: <https://repository.mruni.eu/handle/007/18916> (Lithuanian), <https://repository.mruni.eu/handle/007/18917> (English).

The constant communication via social networks campaigns is provided to raise the awareness of data protection rights and obligations.

The Inspectorate: From 2021 annual event for DPOs' about data protection and e. Privacy;

- 2021-2023 project "Solving Privacy Paradox 2: Promoting High Standards of Data Protection as a Fundamental Right at the Workplace" (co-financed by the European Commission). Project activities, e. g. 14 trainings for business, 6 trainings for the public sector, 3 guidelines, 10 podcasts, 3 scientific articles, APP "ADA gidas" development and support, Closing conference. More information: <https://vdai.lrv.lt/en/solpripa-2-work-project/>, deliverables <https://vdai.lrv.lt/lt/naudinga-informacija/solpripa-2-work-projektas/>;

- Various guidelines (<https://vdai.lrv.lt/lt/naudinga-informacija/rekomendacijos-gaires-ir-kt/work/>), e. g. Guidelines for personal data security measures and risk assessment for data controllers and data processors, Guidelines on data protection by design and by default in information system life cycle, Recommendation regarding the processing of debtors' personal data, Guidelines for the evaluation of requests for the provision of personal data, 20 steps for children and teenagers to protect their personal data online and etc.

- FAQs' (<https://vdai.lrv.lt/lt/kiti/klausimai-duk/>) on various topics, e. g. video surveillance, direct marketing, data subject rights, personal data security breaches and etc.;

- Publication of the summaries of investigation results ([https://vdai.lrv.lt/lt/patikrinimu-rezultatu-apibendrinimai/vdai-patikrinimu-rezultatu-apibendrinimai-po-bdar-isigaliojimo/](https://vdai.lrv.lt/lt/patikrinimu-rezultatu-apibendrinimai/vdai-patikrinimu-rezultatu-apibendrinimai/vdai-patikrinimu-rezultatu-apibendrinimai-po-bdar-isigaliojimo/));

- Publication of the summaries of the most important SA's decisions (<https://vdai.lrv.lt/lt/naudinga-informacija/vdai-sprendimai-baudos-nurodymai-ir-kt/>);

- Various meetings with data controllers and processors, sectoral associations;

- Providing general advise via official answers, e-mail, phone hotline and on the SA's premises.

- Participation in conferences and events.