



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

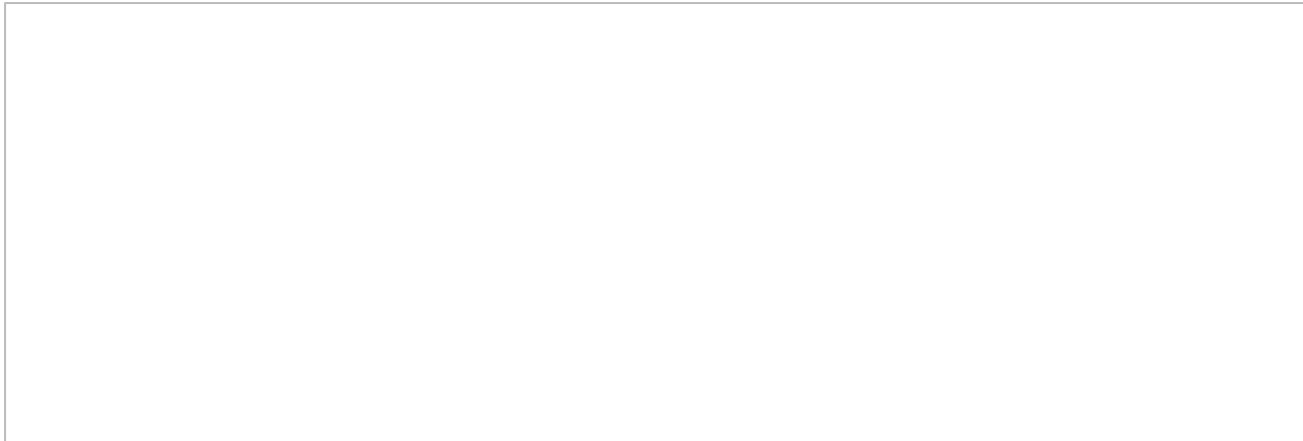
* 3.2 If yes, of which third country or international organisation ?

No specific opinion

* 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.

No specific opinion

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 would like to recall the statement from the EDPB Interplay Guidelines, 05/2021:

“The lack of definition of transfer in the GDPR leads to legal uncertainty about the precise scope of the obligations deriving from Chapter V and the interplay between Article 3 and Chapter V. It is therefore essential to clarify this notion. Considering that the EDPB, according to Article 70(1)(b) GDPR, has the task to advise the European Commission on any issue related to the protection of personal data in the Union, including on any aspects of the Regulation that it considers to require further clarification, the EDPB invites the European Commission to pay particular attention to this issue in the context of the report on the evaluation and review of the GDPR as per Article 97.”

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?**

No information available, but only in a few cases

*** 4.1.1.5 Which topics were addressed?**

For example, legal basis for personal data processing

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

Normally, consensus is reached. In one case the matter was brought to an Article 65-procedure following objections from several SAs.

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

*** 4.1.2.2 Could you explain why you have never used Mutual Assistance - Article 61 procedure for carrying out an investigation?**

We have not seen the need for this. Issues have been solved by the voluntary mutual assistance procedure and the one-stop-shop mechanism.

* 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?**

No specific reason, no need for this has been identified.

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 have not seen the need for this yet.

* 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?**

No need has been identified.

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	5
2021	5
2022	5
2023	5
2024 (Forecast)	5

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	89	---
2021	89	---
2022	105	---
2023	134	---
2024 (Forecast)	140	---

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

	BUDGET (€)
2020	9 675 000
2021	10 100 000
2022	11 400 000
2023	14 600 000
2024 (Forecast)	15 300 000

*** 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.**

We issue permits to carry out credit information activity (approx 1 % of our activity) and camera surveillance (approx 16 %) compared to data protection issues 83 %.

We also have tasks in relation to whistle blowing, the single digital gateway, air passenger data and the temporary CSAM regulation.

We have a dedicated unit for providing support and guidance to innovation stakeholders, including regulatory test activities.

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 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	1805	3519	2776	2329	2142	2489

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	6	0	2	N/A	1
The number of complaints received from another DPA through the OSS.	17	35	46	34	110	13

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	N/A	N/A	N/A	N/A	N/A	74

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	74	33	47	33	104	69

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	N/A	N/A	N/A	N/A	N/A	10
Number of complaints resolved through an Article 60(8) GDPR decision	N/A	N/A	N/A	N/A	N/A	5
Number of complaints resolved through an Article 60(9) GDPR decision	N/A	N/A	N/A	N/A	N/A	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 written request that fulfills the following criteria:

- relates to an alleged infringement of personal data processing according to the GDPR and LED
- the processing refers to the complainant
- the entity that has processed the data can be identified
- the complainant provides information about his/her identity and contact details

If these criteria are not fulfilled, the request is handled as a tip.

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	73 days, 2,43 months
Median Time	N/A

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	107	41	47	101	121	127

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	134 days	286 days	319	321	223	N/A
Median Time	N/A	N/A	N/A	N/A	N/A	N/A
Total number of closed investigations	74	33	47	33	104	69

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	59	11	35	24	67	15

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	1	0	2	1	0
Issue reprimands to a controller or a processor where processing operations have infringed provisions of this Regulation	57	0	0	6	31	5
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	0	0	0	0	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	2	7	13	8	28	3
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	0	1	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	0	0	3

5.3.3 The number of fines you imposed

	2018	2019	2020	2021	2022	2023
Number of Fines	0	2	15	8	5	9

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.

Processing without an appropriate legal basis
Processing in breach of article 44 in Chapter V
Insufficient security measures, 5.1.f and 32.1
Insufficient information to individuals, article 15

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	51 900	12 700 000	2 751 000	823 000	10 133 037
Average level of fine	0	25 950	846 666	343 875	164 600	1 125 892
Median level of fine	0	N/A	N/A	N/A	25 368	67 638

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	60 cases pending	N/A
Successful challenges	7 cases where decisions were changed	N/A

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

The amounts of fines were lowered somewhat.

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.**

This is a selection of the guidance etc. that we have published:

1. Guidance to specific recipients:

Innovation stakeholders:

Awareness raising initiatives to the innovation system on privacy and data protection matters:

<https://www.imy.se/publikationer/delredovisning-av-uppdrag-om-kunskapshojande-insatser-till-innovationssystemet-om-integritets--och-dataskyddsfrogor/>

<https://www.imy.se/publikationer/kunskapshojande-insatser-till-innovationssystemet-om-integritets--och-dataskyddsfrogor/>

Camera surveillance: Guidance regarding camera surveillance <https://www.imy.se/publikationer/vagledning-vid-kamerabevakning/>

Legislator: Guidance for privacy analysis in legislative work <https://www.imy.se/publikationer/vagledning-for-integritetsanalys-i-lagstiftningsarbete/>

Guidance to political stake holders: <https://www.imy.se/publikationer/vagledning-till-politiska-aktorer/>

Childrens and young people's rights on digital platforms: https://www.imy.se/globalassets/dokument/rapporter/the-rights-of-children-and-young-people-on-digital-platforms_accessible.pdf

A webb portal for innovation matters: <https://www.imy.se/verksamhet/dataskydd/innovationsportalen/>

2. Reports:

Guidance by regulatory sandboxes: <https://www.imy.se/publikationer/slutrapport-om-imys-pilotprojekt-med-regulatorisk-testverksamhet-om-dataskydd/>

Report on privacy protection 2020: <https://www.imy.se/publikationer/integritetsskyddsrapport-2020/>

Report on data breach notifications: <https://www.imy.se/publikationer/anmalda-personuppgiftsincidenter-2022/>

Report on complaints to IMY: <https://www.imy.se/publikationer/klagomal-till-imy-2021/>

3. Legal positions: 4 positions have been published in our series IMYRS:
<https://www.imy.se/publikationer/?query=&selectedPublicationTypes=Legalposition&page=1>

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 EDPB has a two-folded mission. The EDPB strategy for 2021 – 2023 describes two missions for the EDPB: to ensure the consistent application of data protection rules (harmonisation) and to promote effective cooperation among supervisory authorities (efficiency).

- These two missions –the two sometimes conflicting strategic goals of harmonisation and efficiency – must constantly be balanced. We need to reach the necessary level of harmonisation but also find smooth and efficient ways to cooperate. In some cases, we must prioritize harmonisation. In other cases, however, we might have to accept minor differences – but gain in efficiency.

The Commissions recent proposal on new procedural rules in cross border cases will be an important step towards achieving a procedure that guarantees that all concerned DPAs are sufficiently involved and have an appropriate impact in the handling of a case.

However, we have raised a small warning flag about the risk that the new procedural rules may create too many detailed and formalistic steps. We do not want rules that mostly complicate the case handling in cases that do not really have an EU wide impact.

Choose the topics of the guidelines strategically. One way to do this, could be to focus on fewer guidelines simultaneously. We have to be more selective to be effective. Also, and maybe more importantly, make sure there is a strong connection between the EDPB:s adopted strategy and the choice of topics where guidelines should be drafted.

Contact

[Contact Form](#)

