



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 ?

The Balkan countries that are in accession processes and have appropriate data protection rules in place.

* 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.

US

3.4 Reasons for prioritisation if there should be any:

The volume of data transfers and breaches of GDPR in the context of tech multinationals that process personal data of EU citizens. Lack of measures available to data protection authorities to enforce GDPR against companies that are not established in the EU.

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?**

one

*** 4.1.1.5 Which topics were addressed?**

The proposed fine and correctional measures

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

The case is not closed yet.

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?**

We have typically used MA61 to require assistance of the SA in another Member State only during an investigation phase.

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

Very positive. It enables the authority to share information and acquire information needed in a procedure, as well as provide and seek assistance when subjects outside of the Member state are concerned.

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?**

A case where the use of the instrument of A62 for carrying out an investigation would be appropriate or beneficial has not yet been handled by the SA.

* 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?**

A case where the use of the instrument of A62 would be appropriate has not yet been handled by the SA.

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	3-4
2021	4
2022	4-5
2023	5-6
2024 (Forecast)	6

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	48	app. 2/3 of reported FTEs work in data protection, the rest work in the access to public information field (relevant for all years)
2021	47	n/a
2022	49	n/a
2023	48	according to the staffing plan we should have 51 employees
2024 (Forecast)	51	n/a

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

	BUDGET (€)
2020	2.321.085,00
2021	2.330.548,50
2022	2.501.202,00
2023	2.668.398,00
2024 (Forecast)	2.716.110,00

*** 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 Slovene Information Commissioner is responsible for both personal data protection and access to public information (in this area the IC acts as appellate body). In the area of personal data protection, the IC is responsible for tasks entrusted by the GDPR and for DP supervision of the law enforcement sector (under the Police Directive). We have also some limited powers under the Law implementing the e-Privacy Directive, and some other sectoral laws that govern data protection in specific sectors.

Indicatively, approximately 1/3 of the experts work in the area of access to public information and 2/3 in data protection, whereas the general and support services are shared. In accordance with the plan 51 employees have been foreseen for 2023, however we do not have enough funding provided to execute such staffing plan, and currently employ 48 experts, approximately 30 of those work in data protection.

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?

4.5

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	648	1136	1208	1299	1188	242

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	1
The number of complaints received from another DPA through the OSS.	0	0	3	2	7	2

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	14	22	22	11	3

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	751	1050	1206	1202	1279	133

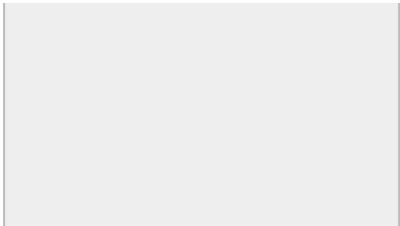
5.1.5 The number of complaints relating to cross-border cases, resolved through an Article 60 GDPR decision adopted by your DPA[1]. Please indicate a breakdown of the decisions adopted under Article 60(7), (8) or (9) GDPR.

[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	0	0	0	0	2
Number of complaints resolved through an Article 60(8) GDPR decision	0	0	0	1	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	<p>The Slovenian legal system does not provide a legal basis for an amicable settlement in the data protection cases, not even with regard to the GDPR. In practice, however, we may encounter data protection cases with a similar conclusion, although not under the term amicable settlement. Such as when a complaint by the complainant regarding the exercise of his /her individual right is withdrawn after the right has been executed. In such cases the administrative proceedings are stopped with a formal act because there is lack of legal interest to continue. Similarly, a Data Protection Supervisor may decide not to start the inspection procedure, if the issue in question (say a complainant's right to deletion of data), has been executed in the meantime by the data controller and the Information Commissioner</p>



has been notified thereof.
Since the breach in question
has been remedied there is
no formal reason to start an
inspection procedure.

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

Before the entry into force of ZVOP-2 (27.1.2023) every communication to us, in which there was a claim of an irregularity, was considered as a complaint.

From 27.1.2023 on, a communication to be considered as complaint has to meet the conditions laid down in Article 31 ZVOP-2: it has to be submitted in accordance with the law governing the general administrative procedure (in particular, it cannot be filed anonymously and has to be personally/digitally signed; it has to be intelligible and contain everything necessary to enable it to be dealt with) and has to provide the name of the controller or processor and an indication of the breach in the processing or security of the applicant's personal data. All other communications in which there is a claim of an irregularity, but do not meet the threshold of a complaint as explained above, are vetted and can be examined in the course of an ex officio procedure.

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	n/a We do not record statistical data on the time from receipt of the complaint/start of an ex officio procedure to closure.
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	90	37	151	48	31	42

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 We do not record statistical data on the time from receipt of the complaint/start of an ex officio procedure to closure.	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	42	41	36	107	60	15

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	94	143	207	121	271	70

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	<p>Please note in relation to the table under 5.3.2. that we do not have statistics in place to differentiate between Article 58(2) GDPR corrective powers for 2018 to 2022, other than the division between fines, reprimands, warnings (the warning in accordance with the national Minor Offences Act is not the same as warning under A58 (2) GDPR, as it refers to data processing that has already taken place). For the remaining correctional powers, we only have an aggregate number for each of the years (2018: 1, 2019: 14, 2020: 22, 2021: 27, 2022: 20), where it should be noted that the vast majority of irregularities found are remedied by data controllers and processors during the procedures and correctional measures other than sanctioning are not necessary. In 2023 we have started to record statistics as provided by the table –</p>	n/a	n/a	n/a	n/a	n/a

	therefore we can provide a breakdown of the numbers by the different corrective measures issued only for 2023.					
Issue reprimands to a controller or a processor where processing operations have infringed provisions of this Regulation	22	21	31	19	41	n/a
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	6
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	n/a	n/a	n/a	n/a	n/a	2
Order the controller to communicate a personal data breach to the data subject	n/a	n/a	n/a	n/a	n/a	0
Impose a temporary or definitive limitation including a ban on processing	n/a	n/a	n/a	n/a	n/a	9
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	n/a	n/a	n/a	n/a	n/a	0

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	n/a	n/a	n/a	n/a	n/a	0
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	0

5.3.3 The number of fines you imposed

	2018	2019	2020	2021	2022	2023
Number of Fines	n/a	n/a	n/a	n/a	n/a	n/a

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.

The SI DPA has not yet imposed any fines under the GDPR. Before the entry into force of the new Personal Data Protection Act, ZVOP-2 (27.1.2023) we could only issue fines for breaches of the previous Personal Data Protection Act – ZVOP-1, a predecessor of the GDPR in Slovenia, but only in relation to the provisions that were still in force and have not been replaced by the GDPR. The breakdown of the fines and sanctions for breaches of ZVOP-1 in the relevant period (the sanctions as defined in the Minor Offences Act and not GDPR):

2018: 20 fines in 22 reprimands, 51 warnings

2019: 44 fines in 21 reprimands, 64 warnings

2020: 58 fines in 31 reprimands, 96 warnings

2021: 18 fines in 19 reprimands, 57 warnings

2022: 75 fines in 41 reprimands, 135 warnings

Typically, the infringements that resulted in a fine concerned:

- Processing of personal data without a legal basis
- Insufficient data security
- Breaches in relation to video surveillance
- Breaches of storage limitation periods, etc.

From 27.1.2023, when ZVOP-2 was enacted, the SI DPA has the power to issue fines under GDPR, however none of the procedures in relation to breaches of the GDPR that occurred after 27. 1. 2023 has been finalized yet.

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 (€)	n/a please see 5.3.4.	n/a	n/a	n/a	n/a	n/a
Average level of fine	n/a	n/a	n/a	n/a	n/a	n/a
Median level of fine	n/a	n/a	n/a	n/a	n/a	n/a

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	41	we do not have such calculations
Successful challenges	8	we do not have such calculations

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

Mainly procedural reasons.

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.**

Information Commissioner is using a variety of tools and approaches in order to reach the relevant audiences with the goal of raising awareness, improving the understanding of data protection legislation and foster greater compliance. Our preventive and compliance toolbox consists of different measures and tools, most notably:

- issuing guidelines on various topics and /or aimed at particular subjects (e.g. biometrics, video surveillance, GPS systems, etc.);
- developing forms, templates and standard contractual forms to assist particularly SMEs and small public sector organizations;
- infographics on important data protection mechanisms, obligations, terms or instruments (e.g. on the concept of personal data, performing data protection impact assessments, on certification/accreditation, etc.);
- pro bono lectures to dedicated audiences, such as ministries, local administration, associations in different sectors and at various conferences, workshops and seminars);
- written opinions to subjects from private and public sector as well as to individuals;
- telephone advice, which is available during business hours to everyone inquiring about data protection;
- opinions on legislative proposals are given to the legislator;
- privacy sweeps, which are conducted in order to efficiently address noted systematic deficiencies or data protection breaches in particular sectors/topics.

We also maintain a LinkedIn (1839 followers) and Facebook profile (2231 followers) to reach our respective target groups and regularly send a monthly newsletter to our subscribers (37 sent as of September 2020).

We have also successfully completed two EU funded awareness raising projects, namely RAPID.Si 2019-2021 (»Raising Awareness on Data Protection and the GDPR in Slovenia — RAPID.si; project size: 105.669,00EUR) and iDECIDE 2020-2023 (»Individuals decide – Raising awareness about data protection rights; project size 242.932,80 EUR). Several brochures for target audiences were developed and distributed, a dedicated SME helpline was maintained and seminars were carried out; furthermore separate websites for SMEs and for raising awareness on data protection were developed (www.upravaljvec.si and www.tidolocas.si respectively).

Our prevention and compliance activities' statistics are as follows. From 2018 to 2023 we have :

- issued 28 guidelines
- issued 18 infographics
- executed 413 pro bono lectures
- issued 8039 written opinions
- given telephone advice on data protection matters in 12057 cases
- issued 427 opinions on legislative proposals
- conducted 14 privacy sweeps

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.**

- Lack of resources on the part of SAs to handle the increasing number of procedures with increased complexity, especially cross border cases, efficiently and in a timely manner.
- Mechanisms of consistency and cooperation (especially Art.65 procedures) have increased and take much more time and resources on the part of SAs; less time can be devoted to developing general guidance, which is much needed by the controllers, processors and SAs to agree on common interpretations and practices.
- The proposed procedural regulation is intended to bring more procedural steps in cross border procedures, which will be impossible to address with the resources we have.
- Digital package Acts – Bring overlap of competencies and different governance structures which will impact data protection guaranteed by the GDPR, if not streamlined.

Contact

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