



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.

Bosnia and Herzegovina

3.4 Reasons for prioritisation if there should be any:

Croatia has strong economic ties with Bosnia and Herzegovina and thus permanently large volume of data transfers. Bosnia and Herzegovina has its independent supervisory authority, Law on the Protection of Personal Data and has also signed and recently ratified Convention 108+.

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?

NO

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?

Our experience is very positive. The cooperation with all supervisory authority was effective and successful, we received all the necessary information in timely manner, the investigations were concluded and decisions made and we were informed about the results of investigations.

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 don't have enough human resources to carry out Joint operations from Article 62.

* 4.1.3.3 Did you ever use Joint Operations in the case of monitoring the implementation/enforcement of a measure imposed in another Member State?

- Yes
- No

* 4.1.3.4 Could you explain why you have never used Joint Operations - Article 62 procedure for implementation/enforcement of a measure imposed in another Member State?

We don't have enough human resources to carry out Joint operations from Article 62.

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	0,5
2021	1
2022	1
2023	1
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	35	NO COMMENT
2021	34	NO COMMENT
2022	33	NO COMMENT
2023	36	NO COMMENT
2024 (Forecast)	41	NO COMMENT

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

	BUDGET (€)
2020	1,395.88382
2021	1,273,563.612
2022	1,651,510.22
2023	1,538,352
2024 (Forecast)	1,852,649

*** 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

4.4.5 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?**

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	383	383	102	259	271	279

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	383	383	102	259	271	279
The number of complaints received from another DPA through the OSS.	0	0	0	0	0	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	3	4	3	5	5

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	313	106	92	214	257	109

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	0
Number of complaints resolved through an Article 60(8) GDPR decision	0	0	0	0	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	0

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

The National Law (Law on the Implementation of the General Data Protection Regulation in Article 34) stipulates that anyone who believes that the right guaranteed by this Law and the General Data Protection Regulation has been violated, can submit a request to the Agency for determination of rights violations. Also, the national procedural law (Law on General Administrative Procedure in Article 40) stipulates that a party can submit a request to start the procedure directly in writing or orally on the record, and such a request can be also sent by mail or delivered electronically.

5.1.8 For complaints handled by your DPA which you consider to be closed, provide the average and the median time (in months) from receipt of the complaint (either directly from the complainant or from another DPA) to closure (e.g. by decision or amicable settlement).

	In months
Average Time	5
Median Time	4

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	1358	2065	1570	1938	641	3383

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	5	4	4	4	4	3
Median Time	3	2	3	3	2	2
Total number of closed investigations	1358	2065	1570	1938	641	1289

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	143	61	39	76	89	37

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	2	16	9	1	1
Order the controller or the processor to comply with the data subject's requests to exercise his or her rights pursuant to this Regulation	75	58	13	21	47	1
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	74	16	48	64	54	32
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	43	23	10	24	24	18

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	0

5.3.3 The number of fines you imposed

	2018	2019	2020	2021	2022	2023
Number of Fines	0	0	1	4	14	26

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.

- Art.6.1st. — processing of personal data without a legal basis through cookies; Art.7 — disable voluntary giving/withdrawal of consent; Art.13(1) and (2) failure to provide data subjects with information about the processing of their personal data through cookies
- Art. 6, paragraph 1 — processing of personal data without a legal basis (collection of CVC number), Art. 13 (1) and (2) — non-transparent information to the data subject; Art.32.1(a) and (d) and para.4 — failure to take technical and organisational measures, Art.38(6) — the existence of a conflict of interest when appointing a Data Protection Officer
- Art.32.1(b) and para.2 – the controller has not taken appropriate technical measures to protect the processing of personal data of data subjects contained in storage systems; Art.6 §1 and in this connection Art.9, para.2 — the controller has processed personal data of a special category (health data) of the data subject in its database (application) without the existence of a legal basis; The controller has processed personal data of data subjects who are not in a debt-belief relationship in its database (application) without the existence of a legal basis referred to in Article 6(1). The General Data Protection Regulation; Article 6(1) and in this connection there was an infringement of Art.5(2). — for the recording of telephone conversations in a given period, the controller did not have an established legal basis; Art.12.1 and in this connection Art. 13.1 and (2), Art. 12(1) — opaque information to the data subject on the processing of health data and the processing of personal data in the form of recording of telephone conversations
- Art. 28. St.3 — the controller has not concluded a contract for the processing of personal data with the processor for the service of monitoring simple consumer bankruptcy, Art. 32. Paragraph 1 T. b) and d) and (2) — failure to take appropriate technical and organisational protection measures for the processing of personal data, Art. 13 St.1. — The controller has not clearly and accurately informed its data subjects about the processing of their personal data by means of a notice on the processing of personal data (privacy policy)
- The controller has processed personal data, i.e. copies of bank cards of the data subject, for which no legal basis has been demonstrated in breach of Article 6(1); The controller has not adequately informed the data subjects about the processing of personal data, i.e. the processing of data contained in copies of bank cards, in violation of Article 13(1) and (2) of the GDPR. The General Data Protection Regulation; When creating a new business process for the fast payment service on a bank card, the controller did not implement appropriate technical and organisational measures, in breach of Article 25(1) and (2); The controller did not apply a technical measure of encryption to the personal data of the data subject stored in the databases of the controller and did not regularly assess the effectiveness of technical and organisational measures to ensure the security of the processing, in breach of Article 32(1)(a) and (d)

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	145.995,09	103.191,99	528.369,49	8,261,000.00
Average level of fine	0	0	145.995,09	25,797.99	37,740.68	317,730.77
Median level of fine	0	0	0	17,585,77	2,322.65	3,250.00

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	152	13,93
Successful challenges	17	1,56

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

The most common reasons for the Court's failure to confirm our ruling are procedural defects and misapplication of substantive law.

Some cases were not confirmed by the court because the court considered that there were procedural deficiencies such as, for example, the fact that the Agency did not request the observations of all stakeholders in the proceedings.

The other cases were not confirmed because the Court found that we had misapplied substantive law, on account of an incorrect or incomplete factual situation; we have not correctly interpreted the provisions of the regulations applied by us and the provisions of other relevant regulations applicable to the specific case complained of by a party.

For example, cases related to video surveillance and the exercise of the right of access to personal data of the data subject who were annulled by the court and returned to the Agency for retrial, all because in the specific case the court considered that we had not sufficiently established all the relevant facts and properly assessed the evidence collected.

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.

In the period from 2019 to 2019, we implemented the EU-funded project T4 Data, aimed at providing support to Data Protection Officers (DPOs) through training and developing guidelines on DPO tasks. From 2020 to 2022, we implemented the EU-funded project ARC, which aimed to support Small and Medium Enterprises (SMEs) in complying with the GDPR through training, workshops, and seminars. Currently, we are implementing the ARC2 project with the main goal of developing an innovative tool for SMEs to help them comply with the GDPR. Additionally, we conduct at least two GDPR training sessions on various topics and two workshops for DPOs each month.

All materials developed for data controllers and processors to assist them in GDPR compliance are available at:

<https://arc-rec-project.eu/hr/>

<https://arc-rec-project.eu/edukativni-materijali/>

<https://azop.hr/eu-project-t4data/>

<https://azop.hr/edukativne-aktivnosti-azop-a/>

Additionally, we occasionally organize workshops for citizens and also in schools for children. Within the SPE pool of experts project, we are developing a training program tailored to the needs of DPOs in the health and educational sectors because we have identified that these two sectors face the most challenges in complying with the GDPR: <https://azop.hr/applications-for-a-free-online-workshop-dpo-tasks-and-personal-data-protection-in-the-healthcare-sector/>. In addition we participate at panels, workshops organized by stakeholders as speakers. We were host of Spring Conference of European Data Protection Authorities in 2022 and we organize always high level conference on the occasion of Data Protection Day to raise awareness on personal data protection among all stakeholders.