



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.**

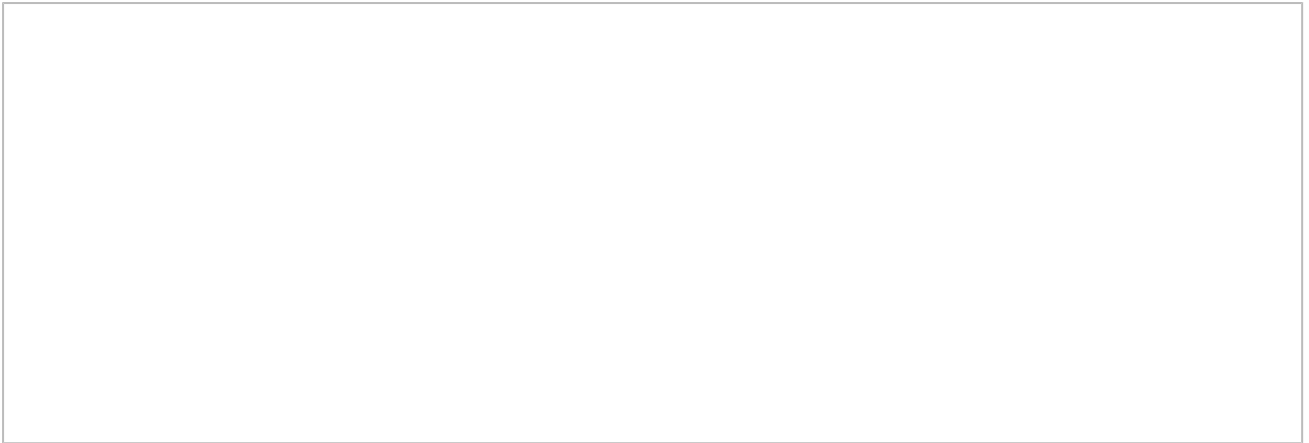
India could possibly be a country which may be considered by the Commission in this regard.

On a different but related note, the Commission should prioritise the review of adequacy findings which were adopted pre-GDPR.

3.4 Reasons for prioritisation if there should be any:

The growing reliance on both countries as data centre hubs where personal data of EU individuals are transferred primarily for hosting services. It is therefore imperative to have in place mechanisms to facilitate the enforcement of the legislation and the protection of those data.

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

* 4.1.1.2 Please enter below any comment to make with respect to the identification and handling of local cases under Article 56(2) GDPR

When the requirements established in Art 56(2) are met, meaning that the receiving SA has informed the LSA (Art 56(3)) and the LSA decided not to handle the case (Art 56(5)), the case will be treated as a local case. For these cases, the IMI system should cater for a mechanism not to allow other SAs to declare themselves as CSAs. The fact that other SAs declare themselves as CSAs, should not bring into question the assessment made by the receiving SA and the LSA when deciding to handle the case as a local one.

* 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

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

We use Article 61 procedure in relation to personal data breach investigations to request information in the process of establishing whether other SAs have received the notification related to a specific personal data breach . If in the affirmative, information about their course of actions will be requested.

* 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?**

The need to use this procedure never arose.

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?

The need to use this procedure never arose.

* 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?

The need to use this procedure never arose.

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	1
2021	1
2022	1
2023	1
2024 (Forecast)	1

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	15	Nil
2021	14	Nil
2022	15	Nil
2023	15	Nil
2024 (Forecast)	18	We are currently planning to hire one Office and HR Administrator, one Legal Counsel and one Technical Executive

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

	BUDGET (€)
2020	550000
2021	620000
2022	680000
2023	700000
2024 (Forecast)	750000

*** 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.**

Our DPA is also responsible to enforce the provisions of :

- the Freedom of Information Act Cap. 496 of the Laws of Malta;
 - ePrivacy Directive as transposed in national laws under Subsidiary Legislation 586.01 of the Laws of Malta;
- and
- the Re-Use of Public Sector Information Act.

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 checked="" type="radio"/>	<input type="radio"/>
* Technical Means	<input checked="" type="radio"/>	<input type="radio"/>

* 4.4.7 is your DPA properly equipped to contribute to the cooperation and consistency mechanisms?

- Yes
 No

* 4.4.8 How many persons (FTE) work on the issues devoted to the cooperation and consistency mechanisms?

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	112	147	497	542	649	993

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.	7	25	22	27	39	94

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	29	6	5	6	15	4

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 do not have this informatio. We started to collect this information from 2019	23	66	124	53	36

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	We do not have this informatio. We started to collect this information from 2019	4	6	7	9	1
Number of complaints resolved through an Article 60(8) GDPR decision	0	0	0	0	0	3
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	N/A	N/A	N/A	2	2	3

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

Online form available on our website, communication by post and by email.

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	Local case=8 months Cross border case=not foreseeable as we rely on other SAs timing of handling the cases
Median Time	Local case=6 months Cross border case=not foreseeable as we rely on other SAs timing of handling the cases

5.2 Own-initiative investigations

5.2.1 The number of “own-initiative” investigations launched by your DPA since 25 May 2018

	2018	2019	2020	2021	2022	2023
Number of Complaints	0	0	0	2	1	0

5.2.2 The number of these investigations that you consider to be closed. Provide the average and the median time (in months) from launch of the investigation to closure.

	2018	2019	2020	2021	2022	2023
Average Time	0	0	0	10 months	10 months	0
Median Time	0	0	0	6months	6 months	0
Total number of closed investigations	0	0	0	2	1	0

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	Not available. We started to collect his information in 2023	Not available. We started to collect his information in 2023	Not available. We started to collect his information in 2023	Not available. We started to collect his information in 2023	Not available. We started to collect his information in 2023	Not available yet

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	Not available. We started to collect his information in 2023	Not available. We started to collect his information in 2023	Not available. We started to collect his information in 2023	Not available. We started to collect his information in 2023	Not available. We started to collect his information in 2023	Not available yet
Issue reprimands to a controller or a processor where processing operations have infringed provisions of this Regulation	Not available. We started to collect his information in 2023	Not available. We started to collect his information in 2023	Not available. We started to collect his information in 2023	Not available. We started to collect his information in 2023	Not available. We started to collect his information in 2023	Not available yet
Order the controller or the processor to comply with the data subject's requests to exercise his or her rights pursuant to this Regulation	Not available. We started to collect his information in 2023	Not available. We started to collect his information in 2023	Not available. We started to collect his information in 2023	Not available. We started to collect his information in 2023	Not available. We started to collect his information in 2023	Not available yet
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	Not available. We started to collect his information in 2023	Not available. We started to collect his information in 2023	Not available. We started to collect his information in 2023	Not available. We started to collect his information in 2023	Not available. We started to collect his information in 2023	Not available yet
Order the controller to communicate a personal data breach to the data subject	Not available. We started to collect his information in 2023	Not available. We started to collect his information in 2023	Not available. We started to collect his information in 2023	Not available. We started to collect his information in 2023	Not available. We started to collect his information in 2023	Not available yet
Impose a temporary or definitive limitation including a ban on processing	Not available. We started to collect his information in 2023	Not available. We started to collect his information in 2023	Not available. We started to collect his information in 2023	Not available. We started to collect his information in 2023	Not available. We started to collect his information in 2023	Not available yet

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	Not available. We started to collect his information in 2023	Not available. We started to collect his information in 2023	Not available. We started to collect his information in 2023	Not available. We started to collect his information in 2023	Not available. We started to collect his information in 2023	Not available yet
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	Not available. We started to collect his information in 2023	Not available. We started to collect his information in 2023	Not available. We started to collect his information in 2023	Not available. We started to collect his information in 2023	Not available. We started to collect his information in 2023	Not available yet
Order the suspension of data flows to a recipient in a third country or to an international organisation.	Not available. We started to collect his information in 2023	Not available. We started to collect his information in 2023	Not available. We started to collect his information in 2023	Not available. We started to collect his information in 2023	Not available. We started to collect his information in 2023	Not available yet

5.3.3 The number of fines you imposed

	2018	2019	2020	2021	2022	2023
Number of Fines	17	8	4	3	5	3

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.

Generally, an administrative fine is imposed on the controller after taking into account all the elements of article 83 GDPR and the facts established during the course of the investigation concerning the allegations made by the complainant. It is indeed difficult to pin point the specific circumstances but an infringement of article 5 and, or article 6 and 9 of the Regulation is considered a serious violation of data protection law and a fine is generally imposed on the controller.

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 (€)	23500	20000	31500	27000	322500	32500
Average level of fine	1400	2500	7800	9000	64500	10000
Median level of fine	1000	2500	5000	10000	100000	9000

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	Not available	Not available
Successful challenges	Not available	Not available

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

Nil

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 IDPC operates both an open telephone line available during specified business hours and a generic mailbox accepting queries on matters related to data protection and freedom of information. These services are available to private individuals, professionals, organisations, and public entities.

During the years, the Commissioner has participated in several events, conferences, official meetings with controllers, both private organisations and public entities, operating within different sectors to try to reach the widest audience possible.

2020

A brand new, modern and user-friendly website was launched to provide to the public well-compiled information and guidance and easy-to-use essential tools to seek the assistance of the IDPC where needed. The MT SA website remains the main instrument to promote awareness.

2022

In March an “Online Self-Assessment Compliance Tool” has been developed as part of the project entitled “GDPR awareness campaign and support to business organisations, in particular, SMEs — GDPRights”. This is a user-friendly tool to help SMEs to measure compliance of their processing operations with the General Data Protection Regulation (GDPR). It is available to controllers on the office's website.

2023

In February an awareness campaign designed to increase public awareness on the data protection rights was launched. The IDPC's objective was to instil a culture where citizens of different age groups understand the importance of safeguarding their personal data and be well-informed about how to exercise their rights under the GDPR. A series of publicity material has been produced and published on different communication media, including on public buses and billboards. This project was co-financed by the European Rights, Equality and Citizenship Program 2014-2020.