



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 ?**

In particular the third countries for which there is an adequacy decision. Those decisions should be amended, replaced or repealed in accordance with the provisions of Article 45 paragraph (5) of the GDPR.

*** 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.**

In particular the third countries for which there is an adequacy decision. Those decisions should be amended, replaced or repealed in accordance with the provisions of Article 45 paragraph (5) of the GDPR.

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?

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

*** 4.1.2.4 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?**

It was not the case

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

No particular challenges were encountered

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?**

It was not the case

*** 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?**

It was not the case

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 (not FTE per se)
2021	1 (not FTE per se)
2022	1 (not FTE per se)
2023	1 (not FTE per se)
2024 (Forecast)	1 (not FTE per se)

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	27	With the mention that it includes a number of 5 employees allocated to the Economic Service and 22 employees allocated to the data protection activities
2021	31	With the mention that it includes a number of 8 employees allocated to the Economic Service and 23 employees allocated to the data protection activities
2022	33	With the mention that it includes a number of 8 employees allocated to the Economic Service and 25 employees allocated to the data protection activities
2023	31	With the mention that it includes a number of 8 employees allocated to the Economic Service and 23 employees allocated to the data protection activities
2024 (Forecast)	31	With the mention that it includes a number of 8 employees allocated to the Economic Service and 23 employees allocated to the data protection activities

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

	BUDGET (€)
2020	0,987 million
2021	0,919 million
2022	1,128 million
2023	1,488 million
2024 (Forecast)	1,465 million

*** 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 refer hereby to those tasks entrusted by the Law Enforcement Directive Implementing Law, the ePrivacy Directive Implementing Law, the PNR Directive Implementing Law, SIS II Regulation, VIS Regulation, Eurodac Regulation, Europol Regulation, EES Regulation and Etias Regulation.

The majority of the tasks are those entrusted by the GDPR.

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		
* Financial resources		
* Technical Means		

* 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?

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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	2922	5808	5082	4634	3899	3215

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	-	-	-	-	-	-
The number of complaints received from another DPA through the OSS.	0	1	1	4	-	5

5.1.3 The number of complaints received by your DPA and forwarded to the lead DPA.

	2018	2019	2020	2021	2022	2023
Number of Complaints	3	10	3	5	2	1

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	2	116	67	69	90	64

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	1	0	1
Number of complaints resolved through an Article 60(8) GDPR decision	0	0	1	0	0	0
Number of complaints resolved through an Article 60(9) GDPR decision	0	0	0	0	0	1

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?**

According to Article 20 paragraph (1) of Law no. 102 of 3rd of May 2005 on the set up, organisation, and functioning of the National Supervisory Authority for Personal Data Processing, republished, "Any data subject who considers that the processing of his or her personal data violates the legal provisions in force has the right to submit a complaint to the National Supervisory Authority, especially if his or her habitual residence, place of work or alleged violation is or, as the case may be, takes place on the territory of Romania. The complaint may also be files by electronic means of communication."

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	18
Median Time	12

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	24	152	204	171	198	160

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	6-18	6-18	6-18	6-18	6-18	6-18
Median Time	12	12	12	12	12	12
Total number of closed investigations	24	152	204	171	191	97

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	2	138	88	100	134	115

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	1	0	0
Issue reprimands to a controller or a processor where processing operations have infringed provisions of this Regulation	1	96	60	86	110	95
Order the controller or the processor to comply with the data subject's requests to exercise his or her rights pursuant to this Regulation	3	27	11	15	28	17
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	4	104	51	41	56	62
Order the controller to communicate a personal data breach to the data subject	0	2	0	0	0	0
Impose a temporary or definitive limitation including a ban on processing	0	1	1	0	0	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	0

5.3.3 The number of fines you imposed

	2018	2019	2020	2021	2022	2023
Number of Fines	0	25	28	29	60	51

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.

Examples of circumstances taken into consideration:

- the number of data subjects affected
- the categories of personal data processed
- the duration of the breach
- the lack of actions taken by the controller in order to reduce the damages incurred by the data subject
- the degree of responsibility of the controller by taking into account the technical and organisation measures implementation
- the previous relevant breaches of the controller.

Main breaches

- The breach of Article 5, Article 6, Article 12, Article 25, Article 32
- The breach of the provisions regarding the legal basis and the principles relating to processing of personal data
- The non-observance of the rights regulated under the General Data Protection Regulation
- The breach of the confidentiality and security rules for the processing of personal data

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	489,000	184,550	66,900	212,200	268,900
Average level of fine	0	19,560	6,591.07	2,230	3,536.67	5,273
Median level of fine	0	3,000	3,000	2,000	2,000	2,000

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	26	100
Successful challenges	5	19.23

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

Material error regarding the legal basis, material error, ungrounded

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 guidelines issued by the National Supervisory Authority for Personal Data Processing

- Guidelines regarding the owners' associations
- Guidelines on the application of Law no. 363/2018 (<https://www.dataprotection.ro/servlet/ViewDocument?id=2122>)
- Guidelines on the application of the General Data Protection Regulation, addressed to the controllers
- Q&A Guidelines Regulation (EU) 679/2016

Other informative material for the application of the General Data Protection Regulation issued by the National Supervisory Authority for Personal Data Processing

- Data Protection - Secondary education
- Data protection - High school education
- The rights of the data subjects - Excerpt from Regulation (EU) 679/2016 (<https://www.dataprotection.ro/servlet/ViewDocument?id=1298>)
- The new Regulation (EU) 2016/679 applicable as of 25th of May 2018 - elements of novelty (leaflet)
- The new Regulation (EU) 2016/679 applicable as of 25th of May 2018 - elements of novelty (brochure)
- The Data Protection Officer - general information (https://www.dataprotection.ro/?page=Responsabilul_cu_protectia_datelor)
- The processing of personal data by the owners' associations (https://www.dataprotection.ro/?page=Prelucrarea_datelor_personale_de_catre_asociatiile_de_proprietari)

The Schengen Section on www.dataprotection.ro - <https://www.dataprotection.ro/?page=schengen>

Legislation - https://www.dataprotection.ro/?page=Legislatie_schengen

The rights of the natural persons - https://www.dataprotection.ro/?page=drepturile_persoanelor_fizice_SIS_II

The data protection within SIS II - https://www.dataprotection.ro/?page=Protectia_datelor_in_SIS_II

Additional information - https://www.dataprotection.ro/?page=Informatii_suplimentare_SIS_II

Schengen informative materials - https://www.dataprotection.ro/?page=Materiale_informative_SIS_II

Schengen informative materials:

- The Schengen II Information System (SIS II)
- The Banner Schengen II Information System (SIS II) - <https://www.dataprotection.ro/servlet/ViewDocument?>

id=808

- Schengen II Information System (SIS II - Video presentation)
- The guidelines for the exercise of the right of access to the data introduced within SIS II - <https://www.dataprotection.ro/servlet/ViewDocument?id=1171>
- Europe without borders - European Commission information brochure
- Schengen Information System. The most widely used IT system for security and border management in E <https://www.dataprotection.ro/servlet/ViewDocument?id=2325>

Press releases within the News Section on the website www.dataprotection.ro

Section "FAQ" - <https://www.dataprotection.ro/?page=IntrebariFrecvente1>

Section releases "GDPR Sanctions"- https://www.dataprotection.ro/?page=Sanctiuni_RGPD

Section Annual Reports - <https://www.dataprotection.ro/?page=Rapoarte%20anuale&lang=ro>

Information campaign within the educational units: https://www.dataprotection.ro/?page=Comunicat_Presa_08_09_2023&lang=ro

Organisation of events:

- The European Data Protection Day - 28th of January - conferences in person and on line and the "Open Doors Day" was organised at the premises of the Authority
- on the Internet page www.dataprotection.ro there have been posted the information materials (brochures, leaflets) dedicated to the European Data Protection Day, as well as synthetic information on the activity from the previous years
- on the national television broadcast channel TVR and within the transport means of the Bucharest Transport Society was broadcasted the informative video on the Regulation (EU) 2016/679 - public interest message, regarding the main aspects regulated under Regulation (EU) 2016/679, prepared by the Authority. The same message was broadcasted within the metro and the International Henri Coanda Airport
- Anniversary events/debates on the 25th of May - every year as of the date of application of Regulation (EU) 2016/679
- Drawing contest for children up to 14 years
- Essay contest for students
- Conferences, seminars, symposia, reunions, workshops dedicated to the promotion of the personal data protection rules
- Inter-institutional working groups, meetings with public authorities and institutions