



EUROPEAN DATA PROTECTION SUPERVISOR

The EU's independent data
protection authority

“2023 Annual Activity Report”

Contents

Abbreviations.....	4
1. Introduction.....	7
1.1. EDPS Highlights of the year.....	7
1.2. Strategy	9
1.3. Key performance indicators	10
2. Operational achievements.....	11
2.1.1. European Data Protection Supervisor	11
2.1.2. Supervisory tasks.....	11
2.1.3. Advisory tasks	21
2.1.4. Advocacy and Cooperation	24
2.1.5. Technology monitoring tasks	29
2.1.6. Data Protection Activities	30
2.1.7. Access to documents	31
2.1.8. Communication.....	32
2.2. European Data Protection Board Secretariat	33
2.2.1. Analytical support to EDPB activities for the year	34
2.2.2. Logistical and administrative support to the EDPB	37
2.2.3. Communication, IT & Administration.....	38
2.3. EDPS-EDPB Joint opinions	38
3. Resources management.....	39
3.1. Human resources	39
3.1.1. Development of employees, teams and of the organisation	39
3.1.2. Staff.....	40
3.2. Budget	41
3.2.1. Information on the budget discharge	41
3.2.2. Allocated budget for 2023	41
3.2.3. Budget execution	42
3.2.4. Draft budget for 2024.....	42
3.3. Finance.....	43
3.3.1. Ex-ante.....	43
3.4. Procurement and contracting	44
3.5. Missions' management.....	45
3.6. IT infrastructure and tools	46
3.7. Local Security and Local Information Security	47

4. Internal control..... 48

4.1. Control results..... 48

4.1.1. Effectiveness48

4.1.2. Efficiency50

4.2. Audit observations 50

4.2.1. Internal Audit Service51

4.2.2. European Court of Auditors52

4.3. Annual planning and risk management 52

4.4. Internal control annual assessment 53

4.5. Conclusions on the assurance 53

5. Declaration of assurance..... 54

6. Annexes 55

6.1. Human resources at the EDPS 55

6.2. Budget in 2023..... 57

6.3. List of missions undertaken by the Supervisor in 2023 60

Abbreviations

AA	Administrative Arrangement
AAR	Annual Activity Report
ABAC	Accrual Based Accounting System
AEPD	Spanish Data Protection Authority
AFSJ	Area of Freedom Security and Justice
AI	Artificial Intelligence
AIWG	Working Group on Ethics and Data Protection in Artificial Intelligence
AMP	Annual Management Plan
AOD	Authorising officer by delegation
BCR	Binding Corporate Rules
CATE	Case Analysis Tool Environment
CBDC	Central Bank Digital Currency
CERT-EU	The Computer Emergency Response Team of the EU Institutions, bodies and agencies
CICED	Core International Crimes Evidence Database
CIS	Customs Information System
CEA	Coordinated Enforcement Action
CEF	Coordinated Enforcement Framework
CJEU	Court of Justice of the European Union
CMS	Case Management System
CoE	Council of Europe
CPDP	Computers, Privacy and Data Protection
CSAM	Child Sexual Abuse Material
CSC	Coordinated Supervision Committee
DG	Directorate-General
DGP	Working Party on Data Governance and Privacy in the Digital Economy
DPA	Data Protection Authority
DPbDD	data protection <i>by design</i> and <i>default</i>
DPE AHWG	ENISA's Ad-Hoc Working Group on Data Protection Engineering
DPIA	Data Protection Impact Assessment
DPF	Data Protection Framework
DPO	Data Protection Officer
EASO	European Asylum Support Office
EC	European Commission
ECB	European Central Bank
ECA	European Court of Auditors
ECDC	European Centre for Disease Prevention and Control
ECHR	European Court of Human Rights
ECRIS-TCN	European Criminal Records Information System on non EU-nationals
EDIB	European Data Innovation Board
EDPB	European Data Protection Board
EDPS	European Data Protection Supervisor
EEA	European Economic Area
EES	Entry/Exit System
EIB	European Investment Bank

EP	European Parliament
EPPO	European Public Prosecutors' Office
EPSO	European Personnel Selection Office
ETIAS	European Travel Information and Authorisation System
EUCI	EU Classified information
EUDPR	Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data
EUIBAs	European institutions, bodies and agencies
euLISA	European Union Agency for the operational management of large-scale IT systems in the area of freedom, security and justice
EURODAC	European Asylum Dactyloscopy Database
Eurojust	European Union Agency for Criminal Justice Cooperation
Europol	European Union Agency for Law Enforcement Cooperation
EuSA	European School of Administration
Frontex	European Border and Coast Guard Agency
FTE	full time equivalent
GDPR	' General Data Protection Regulation ' Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data
GPA	Global Privacy Assembly
HR	Human Resources
HRBA	Human Resources and Budget Administration Unit
IAS	European Commission Internal Audit Service
ICC	Internal Control Coordinator
ICDT	Inter-institutional Committee for Digital Transformation
ICS	Internal control standards
IMI	Internal Market Information
IWGDPT	International Working Group in Data Protection in Technology
IPEN	Internet Privacy Engineering Network
JRC	Joint Research Centre
KPI	Key Performance Indicator
LISO	Local Information Security Officer
LLMs	Large Language Models
L&D	Learning and Development
LSA	Lead Supervisory Authority
LSO	Local Security Officer
MFF	Multiannual Financial Framework
MoU	Memorandum of Understanding
MS	Member State
NGO	Non-governmental organisation
OECD	Organisation for Economic Co-operation and Development
OSS	One stop shop
PMO	Paymaster Office of the European Commission
RoP	Rules of Procedure

SA	Supervisory Authority
SIAP	Strategic Internal Audit Plan
SIS	Schengen Information System
SLA	Service Level Agreement
SoA	Statement of Assurance
SPE	Support Pool of Experts
SSS	Staff satisfaction survey
T-PD	Consultative Committee of the Convention 108
VIS	Visa Information System
WEC	Website Evidence Collector
XAI	Explainable Artificial Intelligence

1. Introduction

The Financial Regulation (Article 74.9¹) stipulates that each authorising officer by delegation (AOD) shall submit an annual activity report to their Union institution, together with financial and management information. This report shall present the achievements of their institution in relation to the resources used. It shall also be a management report on performance in the context of their task as AOD. This requirement is the logical consequence of paragraph 2 of this same article, which gives the AOD responsibility for internal controls.

In the annual activity report of the AOD, this latter must include a Statement of Assurance based on their own judgment and on the information available in which the AOD:

- states that the information contained in the report gives a true and fair view;
- declares that the AOD has reasonable assurance that the resources allocated to the activities described in the report have been used for their intended purposes and in accordance with principles of sound financial management, and that the control procedures put in place give the necessary guarantees as to the legality and regularity of the underlying transactions;
- confirms that the AOD is not aware of any matter not reported which could harm the interests of the institution.

1.1. EDPS Highlights of the year

In 2023, the EDPS made a number of **organisational changes** to be able to continuously respond and adapt to the evolving data protection challenges that lie ahead. These changes include the appointment of the EDPS' first Secretary-General and specific sectors to address key policy areas with an impact on data protection. In particular, in the area of Supervision and Enforcement, the EDPS created a sector to monitor the EU's Area of Freedom Security; a sector to address efficiently complaints made by individuals and launch timely investigations into the way personal data is processed by EUIBAs; and another sector to deliver comprehensive advice to European institutions, bodies and agencies (EUIBAs) on data protection matters.

The reshaping of the EDPS also saw the creation of **specialised sectors** in the area of Technology and Privacy, one to ensure the oversight and auditing of IT systems; another to develop to anticipate new technologies and their impact on privacy and data protection; and a sector to develop the independent digital transformation of the institution. The EDPS also set up a task force on Artificial Intelligence (AI), to keep up the pace with its development.

The EDPs also saw the transition of two sectors into **Units**: the Governance and Internal Compliance Unit to ensure the institution's own accountability and the Information and Communication Unit to publicise the EDPS' activities, in April 2023.

Regarding the exercise of the EDPS powers in 2023, it may be highlighted that using investigative powers, the EDPS followed-up on, carried or finalised the **inspection** of the way certain EUIBAs process personal data. The ongoing or closed investigations of 2023 cover an array of subjects, including EUIBAs' use of IT tools and services that may involve the transfer of personal data outside

¹ Regulation 2018/1046: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32018R1046>

the EU or European Economic Area, progressing on the EDPS' investigation into the use of Microsoft 365 by EUIBAs, including the European Commission (EC).

One of the EDPS key supervisory decisions, published on 13 July 2023, concerned the use of **Cisco Webex videoconferencing**² and related services by the Court of Justice of the European Union (CJEU). The EDPS issued this decision on the basis of the revised agreement between the CJEU and Cisco, which ensures that the processing of individuals' personal data occurs only in the EU/EEA. In this decision, the EDPS found that the agreement of the CJEU with Cisco Webex meets the data protection standards under EUDPR applicable to EUIBAs. Importantly, the EDPS welcomes the CJEU's inclusion of technical and organisational measures to prevent the risks associated with transfers of personal data outside the EU/EEA. The EDPS encourages the ongoing commitments by EUIBAs to respect data protection law when using cloud-based services.

During this year, the EDPS also continued to act as **an advisor to the EU's co-legislators** - the EC, the European Parliament (EP) and the Council - on all new proposed legislation potentially impacting individuals' rights to privacy and personal data, hence contributing to shaping a safer digital future for the EU and its citizens. Concretely, in 2023, 116 legislative consultations - in the form of opinions, including own-initiative opinions, and joint opinions with the European Data Protection Board (EDPB), formal and informal comments were issued.

Furthermore, the EDPS invested significant time and resources in advising the EU's co-legislators on AI, in particular the **AI Act**, to guarantee that the development of AI tools and systems comply with data protection law, and advocating that these tools and systems should be prohibited if they pose unacceptable risks to individuals. In this context, the EDPS delivered an **own-initiative opinion on the AI Act** when the proposed regulation entered the final stages of negotiations between the EU's co-legislators³. With this opinion, published on 24 October 2023, the EDPS provided specific suggestions focusing on own future tasks as the authority in charge of overseeing AI systems in the EUIBAs. The EDPS took the opportunity to reinstate the call, collectively made with the European Data Protection Authorities (DPAs) in the EDPS-EDPB joint opinion on the AI Act⁴ that it is paramount that the use of AI systems that pose unacceptable risks to individuals and their fundamental rights are prohibited.

As an extension to the AI Act file, the EDPS also provided **advice on the AI liability rules**, to ensure that individuals who suffer damages caused by AI systems used by EUIBAs are protected in the same way as individuals who suffer damages caused by AI systems used by private or public sectors in other EU Member States.

Moreover, building on previous work done at the level of the G7 DPAs Roundtable with the privacy and data protection authorities of Canada, France, Germany, Italy and Japan, United States and United Kingdom the EDPS acted as main sponsor of a GPA resolution⁵ on **generative AI systems** that was adopted in 2023. With this resolution, GPA members commit to and underline that data protection and privacy principles - including limits on data use, data minimisation, accuracy and transparency - and current laws in this area, apply to generative AI products and services, even if different jurisdictions continue to develop AI-specific laws and policies.

² https://www.edps.europa.eu/system/files/2023-07/2023-07-13-edps-cjeu-cisco-decision_en.pdf

³ https://www.edps.europa.eu/press-publications/press-news/press-releases/2023/edps-final-recommendations-ai-act_en

⁴ https://www.edps.europa.eu/node/7140_en

⁵ <https://globalprivacyassembly.org/wp-content/uploads/2023/10/5.-Resolution-on-Generative-AI-Systems-101023.pdf>

In 2023, the EDPS also enhanced its capabilities to assess and prepare for upcoming and future technological trends to measure their impact on privacy and data protection, more than ever before. To achieve this, the organisation monitored technological developments using a foresight-based approach, looking in particular at **large language models, digital identity wallets, internet of behaviours, extended reality, deepfake detection**. The work in this area can be found in the TechSonar reports, the first European initiative that links data protection and strategic forecasting, foresight and future studies.

1.2. Strategy

In a connected world, where data flows across borders, solidarity within Europe, and internationally, will help to strengthen the right to data protection and make data work for people across the EU and beyond.

The [EDPS Strategy for 2020-2024](#) focuses on three pillars: **Foresight, Action** and **Solidarity** to shape a safer, fairer and more sustainable digital future.

- **Foresight:** the EDPS commitment to being a smart institution that takes the long-term view of trends in data protection and the legal, societal and technological context.
- **Action:** proactively develop tools for EUIBAs to be world leaders in data protection. To promote coherence in the activities of enforcement bodies in the EU with a stronger expression of genuine European solidarity, burden sharing and common approach.
- **Solidarity:** the EDPS belief is that justice requires privacy to be safeguarded for everyone, in all EU policies, whilst sustainability should be the driver for data processing in the public interest.

The year 2024 marks the **EDPS' 20th anniversary**, two decades of protecting privacy and data protection.

With this milestone comes the inevitable need to reflect on the progress made, the mountains conquered, and lessons learned, serving as fuel to plan ahead, to tackle the challenges of tomorrow. This exercise is necessary for any institution with an ambitious mission that wishes to adapt, to keep up the pace with an ever-evolving digital landscape for being able to respond adequately to protect individuals' data protection rights.

Following this dynamic, the year 2024 will be dedicated to preparing the data protection landscape of tomorrow by analysing the past, present and possible future dynamics between data protection, privacy, technology, policy and other fields.

To achieve this, the EDPS has chosen to base its anniversary on four key pillars - all designed to highlight the importance and impact of data protection.

The first pillar is composed of **a book** and **a timeline** that analyses key data protection **milestones** and the EDPS' influence and history in this remit over the last two decades, as well as an in-depth analysis of what is yet to come.

To inform about EDPS work as a data protection authority going forward, the organisation must also be able to learn from others. The second pillar comprises **20 talks with leading voices** from around

the world who share their unique perspective on how data protection and privacy shapes their respective fields.

With a view of modernising the EDPS’ approach to anticipate and tackle future challenges, the third pillar includes **20 initiatives** aimed at further emboldening individuals’ fundamental rights.

The fourth pillar is the **European Data Protection Summit - Rethinking Data in a Democratic Society**, taking place on 20 June 2024, in Brussels, Belgium. During this event, the EDPS aims to foster dynamic and open discussions on the role of privacy and data protection in modern democracies by examining, in particular, the role of a state at a time of an ever-growing collection of information about citizens.

With these four pillars, the EDPS, as a **responsible** and **forward-looking** data protection authority, aims to anticipate the challenges and opportunities ahead for equipping itself with enforceable regulatory tools that protect individuals’ personal data, in an era where data is pivotal in shaping the digital landscape, businesses, governments and other entities.

1.3. Key performance indicators

The EDPS uses a number of key performance indicators (KPIs) for monitoring performance as set by the main objectives of the EDPS Strategy⁶.

The KPI scoreboard below contains a brief description of each KPI and the results on 31 December 2023. These results are measured against initial targets, or against the results of the previous year.

In 2023, the organisation met or surpassed - in some cases significantly - the targets set in all KPIs, except one, confirming the positive trend in implementing our strategic objectives throughout the year.

One KPI did not fully meet the set target, KPI7, on followers on EDPS social media due to the reduced growth in the number of followers on X (ex-Twitter). This might have resulted from a general decline in the number of people active on this social media.

KEY PERFORMANCE INDICATORS		Results 31.12.2023	Target 2023
KPI 1 Internal indicator	Number of initiatives, incl. publications, on technology monitoring and on promoting technologies to enhance privacy and data protection organised or co-organised by EDPS	16 initiatives	10 initiatives
KPI 2 Internal & External Indicator	Number of activities focused on cross-disciplinary policy solutions (internal & external)	8 activities	8 activities

⁶ KPIs are regularly revised to ensure that performance metrics adapt to developments in EDPS activities.

KPI 3 Internal Indicator	Number of cases dealt with in the context of international cooperation (GPA, CoE, OECD, GPEN, Spring Conference, international organisations) for which EDPS has provided a substantial written contribution	36 cases	5 cases	
KPI 4 External Indicator	Number of files for which the EDPS acted as a lead rapporteur, rapporteur, or a member of the drafting team in the context of the EDPB	20 files	5 files	
KPI 5 External Indicator	Number of Article 42 opinions and joint EDPS-EDPB opinions issued in response to EC legislative consultation requests	56 Opinions	5 opinions	
KPI 6 External Indicator	Number of audits/visits carried out physically or remotely	9 audits/visits	5 different audits/visits	
KPI 7 External Indicator	Number of followers on the EDPS social media accounts ⁷	X: 29 413 L: 71 238 EUVoice: 5 906 EUVideo: 752 YT: 2 984 Total: 110 293	Results of previous year ⁸ + 10%	
KPI 8 Internal Indicator	Occupancy rate of establishment plan	95.65 %	90 %	
KPI 9 Internal Indicator	Budget implementation	96%	90%	

⁷ Twitter, LinkedIn, YouTube.

⁸ 2022 result: 100 640

2. Operational achievements

2.1.1. European Data Protection Supervisor

2.1.2. Supervisory tasks

In 2023, the EDPS continued its efforts to supervise European Institutions, bodies and agencies (EUIBAs) on their compliance with the EU Data Protection Regulation in particular with regulation (EU) 2018/1725 (EUDPR). As outlined in the Strategy 2020- 2024, the EDPS is determined to support EUIBAs to continue to lead by example in safeguarding digital rights and responsible data processing activities. Examples of several initiatives the EDPS undertook in 2023 are described below.

2.1.2.1. Area of Freedom, Security and Justice (Europol, EPPO, Eurojust, Frontex, EASO, euLISA)

1. Complaints and investigations

A. Complaints

In 2023, the EDPS received **420 complaints**, i.e 53 more compared to 2022. Out of the 420 complaints received, **73 were admissible** and **347 inadmissible**. During the reporting year, the EDPS finalised 55 admissible complaint cases, which represents an increase of 17% compared to 2022. In addition, the EDPS responded to all 347 inadmissible complaints received.

The 2023 admissible complaint cases presented different degree of complexity. Overall, the outcome of many of the complaints led to improvements in the protection of personal data within the EUIBAs as well as for EU citizens. For instance, for complaints regarding access to evaluation results in selection procedures, the EDPS intervention and communication with the DPOs of the relevant EUIBAs, resulted in the complainants being granted access to a comprehensive summary of their evaluation results.

In addition, the EDPS received several complaints concerning the right to erasure of EPSO accounts. EPSO was advised to clarify in the data protection notice the limits of the right to erasure, and to ensure that its response to questions from candidates about the retention of their data was written in a clear manner including an explanation on why data cannot systematically be erased upon request. Since then, the EDPS has not received any complaints on erasure of EPSO accounts.

While handling complaints, the EDPS continued monitoring recent case law and adapting its interpretation on EUDPR accordingly. As an example, a complaint was received where the complainant wished to obtain access to the log files regarding his EPSO profile. In its original decision, the EDPS concluded, among others, that the log files do not constitute the complainant's personal data. In light of subsequent ruling of the CJEU⁹, the complainant requested the review of the EDPS decision. The decision was revised in light of new legal argument from the complainant. The EDPS ordered EPSO, to comply with the complainant's request to be granted access to available log data generated by consultation operations of their EPSO profile, in accordance with Article 17(1)(c) of EUDPR.

⁹ Judgment of 22 June 2023 in Case C-579/21, Pankki S

B. Investigations

EDPS investigations are a way of establishing whether EUIBAs have breached applicable data protection rules. EDPS strictly complies with the principles of proportionality and fairness and applies the EDPS' core values: impartiality, integrity, transparency and pragmatism.

Before opening a formal investigation, the EDPS may request certain information (pre-investigation) for measuring compliance against applicable data protection rules. The aim is to assess the credibility of allegations or suspicions and to determine whether there is sufficient basis or evidence to warrant a formal investigation. In case of strong suspicion on infringement of data protection rules by a EUIBA, the EDPS may carry out a formal investigation.

In line with the EDPS Strategy¹⁰, the organisation focuses its investigatory activities from 2020 to 2024 on the EUIBAs' use of information and communication technologies, such as **cloud-based** ones, that involve also **transfers of personal data outside of the EU/EEA**.

In 2023, the EDPS closed **one pre-investigation** related to an EUIBA's use of the cloud service *Trello*, opened in 2022. The EDPS took note that internally the cloud service *Trello* had not been approved, recommended or made available by the IT services and that the DPO recommended to all departments not to use the tool. The EDPS therefore recommended to the EUIBA to ensure that all of its staff are made aware that only IT tools officially approved and permitted by the EUIBA may be used for professional purposes, that the processing of personal data involving the use of IT tools fully complies with EUDPA and that the EUIBA informs the EDPS if it decides to permit the use of the cloud service *Trello* by its staff for professional purposes.

In May 2021, the EDPS launched **two investigations** following the Schrems II judgment. One concerned all EUIBAs as regards transfers in their use of cloud services provided by Microsoft and Amazon Web Services under the Cloud II contracts. The other investigation concerned EC's use of Microsoft Office 365. The two investigations were pursued in 2023 and in March 2024 the latter¹¹ was released.

In April 2022, the EDPS issued **a decision to the European Border and Coast Guard Agency** (Frontex), following an investigation initiated in June 2020. The EDPS issued a reprimand to Frontex for moving to the cloud without a timely and exhaustive assessment of data protection risks and identification and implementation of appropriate mitigating measures and compliance order. In 2023, the EDPS carried out a **follow-up** to this decision, taking note of the actions taken and planned by Frontex. The EDPS decided to close the case in line with the principle of accountability under Article 4 of EUDPR, with the expectation that Frontex fully implements all the planned actions and takes additional measures where necessary following the outcome of other ongoing EDPS investigations.

Where appropriate, the EDPS may investigate EUIBAs' compliance with EUDPR and the **ePrivacy Directive** looking into issues brought to its attention through complaints and other aspects. The EDPS may carry out extended complaint-based investigations where websites or mobile applications of EUIBAs are concerned. In 2023, the EDPS carried out **five complaint-based investigations** concerning EUIBAs' websites. Decisions on these cases will be issued in the course of 2024.

¹⁰ https://www.edps.europa.eu/press-publications/publications/strategy_en

¹¹ See related press release: https://www.edps.europa.eu/system/files/2024-03/EDPS-2024-05-European-Commission_s-use-of-M365-infringes-data-protection-rules-for-EU-institutions-and-bodies_EN.pdf
https://www.edps.europa.eu/system/files/2024-03/EDPS-2024-05-European-Commission_s-use-of-M365-infringes-data-protection-rules-for-EU-institutions-and-bodies_EN.pdf

During the reporting year, the EDPS also carried out **general and specific supervisory follow-up of personal data breaches** that EUIBAs had notified to the EDPS, focusing supervisory follow-up on high-risk cases¹². As part of such follow-up the EDPS decides whether any further action is required in relation to the notified personal data breaches, such as issuing additional recommendations to the EUIBA concerned, conducting an audit, requesting further information or opening a formal investigation.

The **steady increase** in the **processing of personal data** by EUIBAs and the enhanced **procedural and technical complexity** of the information systems that support them, have had an impact on the limited resources available in the area of supervision in the EDPS.

C. Procedural work items related to complaints and investigations

In addition to carrying out **investigatory activities**, in 2023, the EDPS worked on developing **procedures** for the following **13 items**: investigations manual, investigations policy, public info package on investigations, review of the EDPS' web inspection report tool, review of complaints website, new template for out-of-mandate complaints (prima facie inadmissible), complaints and investigations' internal policy for supervisory follow-up of data breaches and EDPS hearing rulebook. In addition, the review of investigation methodologies, manual on access to the file, litigation preparedness, review of EDPS' internal complaints case manual and hearing recording and transcription is ongoing.

These procedural work items take a substantial amount of time and resources. The works of the newly created sector on Complaint & Investigations, having a number of new tasks for which detailed procedures have still to be developed (e.g. investigations, follow up to data breaches, imposition of fines), are expected to increase in the near future.

2. Cooperation with data protection authorities in supervision and enforcement of data protection rules

In 2023, the EDPS cooperated with Data Protection Authorities (DPAs) within and outside of the EU/EEA and in international fora in seven cases for carrying out respective tasks supervising and enforcing data protection legislation. This cooperation focuses on exchange of practical information on findings and actions taken by the EDPS and other DPAs.

In 2023, the EDPS, for example, participated in the **EDPB 2023 Coordinated Enforcement Action (CEA)** on the designation and position of the DPO. This exercise involved the conduct of an EDPS survey with the EUIBAs' DPOs on their role, responsibilities and tasks. At the same time, the EDPS continued in 2023 to cooperate with the other participating DPAs in the context of the EDPB 2022 CEA on the use of cloud-based services by the public sector, as well as to prepare for the EDPS' participation in the EDPB 2024 CEA on the implementation of individuals' right of access to their personal data.

Such cooperation requires a significant investment of resources by the EDPS. It also allows the EDPS to gather a common understanding of similar issues faced by public bodies within and outside of the

¹² High risk cases are considered situations where the data breaches lasted a very long time or were detected very late, affected a high number of individuals, involved several EUIBAs or were due to cyber-attacks flagged by CERT-EU or due to serious omissions in measures in place at the EUIBA.

EU/EEA when they use similar tools to process personal data or when they carry out similar processing operations for performing similar tasks in the public interest.

3. Strategic actions concerning transfers of personal data outside of EU/EEA

Following the Court of Justice of the European Union's (CJEU) "Schrems II" judgment¹³, the EDPS developed various initiatives in the area of international transfers and established the **EDPS' Schrems II Strategy**¹⁴. The Strategy aims to ensure and monitor compliance of EUIBAs with the requirements of the CJEU concerning transfers of personal data to non-EU/EEA countries, building on cooperation and accountability of controllers as well as on the use of EDPS corrective powers. Three types of actions were pursued in parallel, including investigations, transfer authorisations and advisory work, plus guidance to assist the EUIBAs in discharging their duty of accountability. For such an extensive monitoring of EUIBAs compliance with EUDPR, the EDPS updated the guidance on transfers in its website, in particular information such as the obligation to notify the EDPS on the categories of transfers carried out under Articles 48 and 50 of EUDPR.

The adoption of the EU - US Data Protection Framework (DPF) by the EC is an important element underlying the free flow of personal data between the EEA to the United States. The EDPS is paying special attention to the correct implementation of this new instrument and will contribute to the first review of the DPF next year. Transfers to US entities that are not included in the 'Data Privacy Framework List' require appropriate safeguards, using the tools provided for in EUDPR.

4. EDPS authorisations and advisory work

Following the Schrems II judgment in 2022 and its far-reaching consequences, the EDPS provided **guidance** to EUIBAs, including in particular on the need to consult informally the EDPS on any draft administrative arrangements or standard data protection clauses prior to filing the formal authorisation request. This offered EUIBAs the opportunity to implement the recommendations in advance of the final authorisation. In terms of providing appropriate safeguards under Article 48 or the EUDPR, the EDPS suggested the GDPR Standard Contractual Clauses as a starting point. It also asked EUIBAs to consider in their assessments government access data rules applicable in the concerned third countries. As regards existing processing operations, the EDPS indicated that it is the EUIBAs' responsibility to stop unlawful transfers either by adapting the existing contract or by finding alternative solutions.

The EDPS has taken a proactive approach by supporting the collective effort of EUIBAs to join the CJEU in their negotiations with **CISCO** regarding the use of **Webex** for **videoconferences**. Moreover, the EDPS is the lead authority in a pilot project regarding the use of collaborative tools involving no transfers outside the EEA. The EDPS is also involved in the discussions on an administrative arrangement template allowing transfers of personal data to international organisations that has been drafted with the involvement of the EU.

5. Authorisation of contractual clauses to transfer personal data

On 28 October 2022, the EDPS issued a **decision** temporarily and conditionally authorising until 31 October 2024 the use of contractual clauses between the **CJEU and Cisco**. As part of the decision,

¹³ Case C-311/18

¹⁴ Strategy for Union institutions, offices, bodies and agencies to comply with the 'Schrems II' Ruling, 29 October 2020: <https://www.edps.europa.eu/data-protection/our-work/publications/papers/strategy-union-institutions-offices-bodies-and-en>

the EDPS asked the CJEU to remedy the identified compliance issues and to inform the EDPS on the steps taken to implement the conditions, as well as to issue a final compliance report. Considering the technical and organisational measures taken by the CJEU to prevent the risks associated with transfers of personal data outside the EU/EEA, the **EDPS decision**¹⁵ of 13 July 2023, concluded that the former meets the data protection standards under EUDPR.

The EDPS encourages the ongoing commitments by EUIBAs to respect data protection law when using cloud-based services, also through assessments and analysis of risks related to non-EU/EEA laws that may affect the privacy of individuals. In that context, the EDPS organised a number of activities to explain to DPOs and other stakeholders the details of the decision of 13 July 2023.

6. Annual Audit Plan

Audits are an exercise that the EDPS carries out on a regular basis as the data protection authority of EUIBAs. The EDPS conducts audits in the context of an investigation or complaints requiring on-site checks or as part of the Annual Audit Plan that determines the EUIBAs to be audited in a given year based on different criteria, including the risk of the processing activities and the categories of personal data undergoing processing.

The Annual Audit Plan for 2023 included audits requiring on-site visits and covered different types of processing activities, including HR data, remote proctoring, pharmacovigilance, processing activities in the context of disease prevention and control as well as personal data breaches.

The EDPS carried out audits focusing on the main legal data protection aspects of the **EPSO remotely proctored testing** using external service providers. The audit was designed to ensure that EPSO carried out a necessity and proportionality assessment on the use of remotely delivered testing and the processing operations including an assessment of the risks raised by the use of live and automated remote proctoring [including the use of artificial intelligence (AI)], transfers of personal data to third countries. It also covered organisational measures taken by EPSO so that data protection principles are embedded by design. The audit also aimed at raising awareness on the crucial role of the DPO function in EPSO's operational activities, most of which require that personal data be processed.

The EDPS also conducted an audit at the **European Investment Bank (EIB)**, triggered by the number of complaints received over the past years regarding the exercise of data subject rights. The six recommendations resulting from this audit were as diverse as the cases looked into, but, overall, aim at making sure that EIB practices (which already improved following those complaint cases) are properly documented and that data subjects are reliably and transparently informed.

As part of the Annual Audit Plan, the EDPS also audited processing activities carried out by the **European Central Bank**, the **European Centre for Disease Prevention and Control (ECDC)** and the **European Medicines Agency**.

7. Supervisory Opinions and guidance

EUIBAs may consult the EDPS for guidance on their planned processing operations and on their compliance with data protection law. Depending on the complexity of the EUIBA's request, the EDPS provides advice in different forms, via calls to the DPO hotline, informal advice to staff and

¹⁵ https://www.edps.europa.eu/data-protection/our-work/publications/authorisation-decisions-transfers/2023-07-13-edps-cjeu-use-cisco-webex-video-and-conferencing-tools_en

formal signed letters, for example. EUIBAs may also be obliged to consult the EDPS on planned processing operations, particularly when they intend to adopt internal rules restricting individuals' right to data protection and with regard to extra-EU transfers of personal data that require prior authorisation. The EDPS can also issue own-initiative opinions. In total, during 2023 the EDPS issued advice on **43 consultations**, including **15 supervisory opinions** covering a broad range of topics. Here is a selection:

- **Transmission of personal data by EUIBAs to EU Member States intelligence authorities:** This opinion concerns requests by Member States' intelligence authorities to receive personal data held by EUIBAs. The opinion refers to (i) the conditions for such transmission under Article 9 of the EUDPR, (ii) compliance with the other provisions of the EUDPR (lawfulness under Article 5, the data protection principles of Article 4, in particular purpose limitation and data minimisation as well as the provisions on data subject rights (Articles 14 to 23) and (iii) touches upon Protocol No 7 on privileges and immunities in that context. In the case at hand, the EDPS deemed necessary that the EUIBA concerned asks the intelligence authority to substantiate further the specific purpose of the transmission of the data at stake, and why such transmission is necessary for intelligence authority to perform their tasks and proportionate to the goal pursued. The EDPS additionally recommended that the EUIBA further explores whether and how they could limit the amount of data communicated to the intelligence authority.
- **Monitoring of social media for epidemiological purposes:** This opinion¹⁶ assesses the lawfulness of the processing operations conducted by the ECDC in the context of a pilot project involving the manual and automated monitoring of social media for epidemic intelligence purposes. In this case, the EDPS deemed necessary that a clear legal basis for the processing is provided, meeting the requirements of clarity, precision and foreseeability required for such rules to be considered as Union Law. The EDPS additionally recommended to conduct a thorough assessment of the necessity and proportionality of the processing operations in the context of its manual and automated social media monitoring as well as to implement additional procedures to increase transparency of the processing.
- **Conflict of interest and independence of a DPO:** The EDPS replied to an informal consultation by an EUIBA regarding a potential conflict of interest and the independence of their DPO, who was supposed to act as the EUIBA's agent representing them in a particular court case. Under EDPS guidance, the DPO's involvement as an agent in a "data protection case" or a case "where the application of data protection rules might be at stake" would constitute a conflict of interest. In view of the limited information available to the EDPS on the court case at hand and based on CJEU case law, the EUIBA was invited to assess carefully whether the court case relates to data protection and could potentially lead a conflict of interest. In doing so, the EUIBA should consider that the determination of a conflict of interests must be carried out, case by case, on the basis of an assessment of all the relevant circumstances and in the light of all the applicable rules. Finally, the EUIBA was invited to specifically document all aspects of this case-specific assessment.
- **Legal basis for restricting data subjects' rights:** In three cases (EDCTP3 Joint Undertaking, Smart Networks and Services Joint Undertaking and European Cybersecurity Industrial, Technology and Research Competence Centre), the EDPS replied to consultations regarding

¹⁶ https://www.edps.europa.eu/data-protection/our-work/publications/opinions/2023-11-09-opinion-use-social-media-monitoring-epidemic-intelligence-purposes-european-centre-disease-prevention-and-control_en

those EUIBAs' internal rules on the possible restriction of data subjects' rights. Those internal rules represent the legal basis for such restrictions as required under Article 25 of EUDPR and the EDPS highlighted the importance of a necessity and proportionality test on a case-by-case basis before restrictions are applied as well as the role of the DPO involvement before any such restriction is actually imposed.

- **Draft EC decision on the prevention of and fight against harassment and accompanying draft EC decision concerning the restriction of certain data subject's rights.** In its opinion¹⁷ the EDPS made several recommendations to ensure compliance of the two draft decisions with the EUDPR, namely the need to clarify in the EC decision that the DPO should provide input before any decision to restrict data subjects' rights is taken and the need to inform data subjects of the principal reasons for the restriction, and their right to lodge a complaint with the EDPS, where the reasons for the restriction no longer apply.

In 2023, the supervisory activities over the Agencies and bodies in the **Area of Freedom, Security and Justice** have revolved around lines of actions:

1. Preparing for the supervision of the interoperability framework. During the course of 2023, the EDPS has stepped up its preparations to supervise the forthcoming AFSJ interoperability framework, with a strong focus on deepening cooperation with national supervisory authorities. The framework, which is set to progressively enter into operation between 2024 and 2026, will create an interconnected ecosystem of EU border management and criminal databases and will lead to the large scale processing of personal data of almost every third country national travelling to, moving within, and exiting the EU (and for years after). Given the considerable data protection implications of the new framework, the EDPS has initiated a number of actions in 2023 for preparing for the multiple challenges of supervising interoperability, structured around three priority areas: (1) developing new approaches to auditing EU Large Scale IT Systems; (2) developing an approach to supervising the use of algorithmic profiling¹⁸; and (3) protecting and promoting data subject rights in the context of interoperability. These focus areas have been pursued through a number of parallel actions aimed at capacity building, in close cooperation with national DPAs, and laying down the foundations for future supervision, namely:

- **Interoperability study** developed by academic experts from the University of Maastricht - sub-contracted by the EDPS - to develop during 2022-2023 a legal study mapping the regulations and legislative acts applying to interoperability and highlighting the data flows in this ecosystem;

- **Computer, Privacy and Data Protection (CPDP) panel** titled 'Interoperability in the EU's AFSJ: preparing to supervise the "point of no return"'. Panel was organised by EDPS within the framework of the CPDP Conference in Brussels, in May 2023.

- Participation in **Supervision Coordination Groups (SCGs)**. The Coordinated Supervision Committee (CSC) will progressively take over and organise the coordinated supervision of all EU-large-scale databases of the interoperability framework. In the framework of the CSC, the EDPS is participating actively in initiatives to deepen cooperation between DPAs for on supervisory activities and preparing for the rollout of the interoperability framework. An illustrative example was a workshop organised by Dutch DPA on 12 September 2023, which brought together around 50 representatives

¹⁷ https://www.edps.europa.eu/data-protection/our-work/publications/opinions/2023-10-13-edps-opinion-commission-prevention-and-fight-against-harassment-and-accompanying-commission-concerning-restriction-certain-data-subjects_en

¹⁸ which will form a component of the new ETIAS and upgraded VIS.

from national DPAs to exchange on supervision of EU large scale IT systems in light of the forthcoming changes brought by interoperability, the new systems and upgrades.

- The **EDPS** as a **member of the European Travel Information and Authorisation System (ETIAS) Fundamental Rights Guidance Board** attended six meetings in 2023, in this first year of the Board's operation, providing input to the development of the Workplan and the Board's Rules of Procedure (RoP). In addition to the setting up of ETIAS, EDPS participated as observer in various Working Group meetings bringing together EUIBAs and national authorities.

2. Reinforcing cooperation with national DPAs bilaterally or through an active participation to the CSC, in particular to coordinated supervisory actions:

- **Joint**, with the **Hellenic DPA**, **on-site checks** at the **Lesvos hotspot** on 12-14 July 2023 for deepening the cooperation with national DPAs to ensure coordinated supervision where responsibilities and activities are dispersed between EU and national levels and to monitor the exchanges of personal data between Frontex and Europol.

- **Inspection of Europol** on 2-3 October on PNR, VIS, Implementation of Art. 18(6a) and Art. 18a together with national authorities.

- A first operational visit to the office of a **European Delegated Prosecutor**, 16 November 2023. The visit to the local office in **Lisbon** confirmed EDPS's supervisory competence over processing of operational personal data by all levels of the EPPO. The involvement of Portuguese DPA allowed for better steering of discussions concerning national law enforcement authorities and their role in EPPO processing. The visit was very informative and both the EDPS and the Portuguese DPA benefited from the explanations provided by an experienced prosecutor and EPPO DPO team.

3. Scrutinizing the processing of personal data with a **high impact** on individuals' fundamental rights:

- **On Frontex.** The supervision over Frontex personal data processing activities have been focused on the most fundamental rights sensitive processing/data subjects at greatest risk of vulnerability. On 24 May 2023, the EDPS issued a report¹⁹ on the audit carried out in October 2022 at Frontex's headquarters in Warsaw. The audit focused on the activities conducted by Frontex at the EU borders during joint operations, the interviews of persons crossing the borders without authorisation and the further processing of the data collected in this context.

The EDPS took specific concern with the way how personal data are collected from debriefing interviews, in particular in the light of the principle of fairness, and further processed as debriefing reports by Frontex for analysing risks and also for exchanging on a systematic basis with Europol for fighting migrant smuggling and traffic in human beings.

On the basis of this EDPS report, and in addition to the wording of 32 recommendations to Frontex, the EDPS opened a) a pre-investigation into collection of information through debriefing interviews in joint opinion and onsite inspection in Lesvos Hotspot (see point 2 above), b) a formal investigation on Frontex's exchange of personal data about suspects of cross-border crimes with Europol and c) a pre-investigation, on the basis of information provided by a journalist about the reporting of NGO members in debriefing reports. The EDPS found that such transmission took place in six cases out of 505 and decided to further investigate the lawfulness of such transmission in the context of the

¹⁹ https://www.edps.europa.eu/data-protection/our-work/publications/audits/2023-05-24-audit-report-frontex_en

broader investigation opened after the audit on Frontex's exchange of personal data about suspects of cross-border crimes with Europol.

- **Europol, the processing of biometric data.** In 2023, the EDPS issued an opinion on a prior consultation from Europol regarding the implementation of a new facial recognition system that the Agency could use to search a subset of images it already possesses. This prior consultation comes at a time where biometrics, and particularly facial recognition, are set to play a larger role in the EU's upcoming legal instruments, as evidenced in the EC's new proposal on migrant smuggling and the inclusion of facial images in the Prüm II system, an extension of the 2008 Prüm Treaty. Facial images will thus be included in this EU police biometric data-sharing network, which already covered DNA and fingerprints. The EDPS has also been providing advice at staff level on the limits to biometric processing set out by Europol in its Analysis Project Portfolio.

- **Europol, the processing of data about minors.** The EDPS conducted an in-depth inspection²⁰ at Europol, focusing on the processing of personal data of minors under 15 years old. The inspection involved assessing Europol's procedures for data handling and identifying minors' roles in organised crime. The EDPS provided recommendations to enhance safeguards and ensure stricter compliance, aiming to improve the protection of minors in law enforcement data processing.

4. Monitoring new ways of cooperation between Europol and Member States (MSs) in the production of operational analysis. The EDPS issued a supervisory opinion on a draft Europol decision implementing the concept of 'joint operational analysis'²¹. This concept entails the participation of different actors in the analytical activities (i.e. the transfer of information to Europol, the visualisation of the information, the analysis itself and the drafting of a joint analytical report). Therefore, a clear allocation of the data protection responsibilities between the different actors is necessary for the efficient protection of the rights and freedoms of data subjects.

5. Providing advice on the setting up of new systems to process operational personal data by Eurojust (war crime module) and EPPO (new environment to conduct operational analysis).

- In 2023, the EDPS cooperated with Eurojust to develop a new database for evidence on core international crimes; two opinions from prior consultations were delivered, focusing on data security and granting data subject rights.

- On 27-28 April 2023, the EDPS audited the EPPO for the first time. The audit focused on processing of operational personal data, especially in the context of handling data subject access requests and on the functioning of the Case Analysis Tool Environment (CATE). Safeguarding data subject rights is a very sensitive topic for the EDPS, as it links to the right to information in criminal proceedings and the risks associated with revealing too much information to the suspects.

The EDPS has put emphasis on engaging regularly with the DPOs of these Agencies to ensure smooth collaboration in the implementation of the data protection framework.

²⁰ See here executive summary published on 6 September 2023: https://www.edps.europa.eu/system/files/2023-09/23-09-06_executive-summary-europol-inspection-report_en.pdf

²¹ This concept is a novelty of the amended Europol Regulation, enabling MSs to allow other MSs to directly access the information they provide to Europol in specific criminal investigations.

2.1.2.2. Large-scale IT Systems

Following the relevant legal instruments²², the EDPS is responsible for ensuring that a personal data protection audit of the Management Authority's (eu-LISA) is carried out at least every four years for the Schengen Information System (SIS II) and the Visa Information System (VIS) and every three years for the European Asylum Dactyloscopy Database (EURODAC). In this regard, the results of the 2022 system audits were announced in 2023.

In 2023, **two** technical **audits** were performed, the **Internal Market Information (IMI) System** managed by Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs (DG GROW) in Brussels and the SIS II managed by eu-LISA, in Strasbourg. The former on-site audit aimed at handling personal data breaches and applying data retention requirements. The latter on-site SIS audit, focused on information security and personal data breaches. The publication of the final audit report is expected in 2025.

Taking advantage of the platform provided by the European Data Protection Board (EDPB), the EDPS as a member of the EDPB, collaborates closely with the Coordinated Supervision Committees (read more [on CSCs](#)), in an effort to enhance its abovementioned supervision work in the AFSJ field. Through the EDPB, the EDPS also strengthens its collaboration with the DPAs of the EU, which are in charge of the supervision of the Europol, Eurojust and EPPO.

2.1.2.3. DPO Network

To help bridge the gap between data protection law, in particular EUDPR and its practical application, the EDPS continuously fosters collaboration with the DPOs of 76 EUIBAs, which compose the **network of DPOs**. The role of DPOs has become increasingly important over the years, especially since the adoption of the GDPR and EUDPR. With their knowledge on data protection and considering the nature of each EUIBAs, DPOs are able to provide independent, tailored advice and measures on data protection matters, whilst meeting the needs of their organisation. As part of the EDPS collaboration with DPOs, two meetings are held per year (see [data protection activities](#)).

The **DPO Support Group**, which gathers around 6-10 DPOs, is closely involved in the preparation²³ of the EDPS-DPOs meeting for a given year. The Group contributes to the elaboration of the agenda of the EDPS-DPOs meeting, prepares actively the workshop(s) and moderates the subgroups of DPOs during the EDPS-DPOs meeting.

Two or three times a year, the EDPS invites six **DPOs roundtable** on pre-defined topics and a summary of the discussion is then circulated to the DPO network. In addition, the EDPS has regular **bilateral meetings** with the DPOs of the EC, the EP and the Council of the EU.

For ensuring effective communication, in 2023 the EDPS designated an EDPS **Contact Point for the DPO Network**. The EDPS provides various resource tools to the DPOs, including monthly 'Quick News for DPO', a hotline and training sessions for newly appointed DPOs.

²² Article 56(2) of the Regulation (EU) 2018/1861 <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32018R1861> & Article 70(2) of the Regulation (EU) 2018/1862 <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32018R1862>

²³ A call for expression of interest is launched at the beginning of each year.

2.1.2.4. Data Breach Notification Management

A personal data breach is a security incident that leads to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to transmitted, stored or processed personal data of individuals. The impact of a personal data breach can be far-reaching, such as identity theft or damage of an individual's reputation. Under EUDPR, all EUIBAs have a duty to report personal data breaches to the EDPS, unless a risk to the affected individuals is unlikely. During 2023, the EDPS continued to monitor and supervise the EUIBAs on their procedures related to personal data breaches²⁴.

77 admissible personal data breach notifications and another **13 inadmissible notifications** were received in 2023. Four of them were assessed as posing unlikely risks for the data subjects and the EUIBAs were informed so as to document the breach in their internal register, while nine of them were submitted by non-EUIBAs.

In 2023, the EDPS worked on closing the backlog of personal data breach notifications of previous years. Within the year, more than 200 cases were assessed and closed, facilitated by an improved internal management and resources allocation to this supervisory area. A new working standard and new procedures and methods to catch up on the backlog of personal data breaches from previous years and to manage the upcoming new notifications was put forward. The goal is to provide all EUIBAs with adequate support and the necessary assistance in this area, as well as to ensure holistic and adequate supervisory mechanisms for the protection of the fundamental rights and freedoms of the data subjects affected from such breaches.

2.1.3. Advisory tasks

The EDPS provides guidance on proposed legislation to the EC, as the institution with the right of legislative initiative, and the EP and the Council, as co-legislators. The EDPS guidance may take the form of:

- **Opinions:** issued in response to mandatory requests by the EC, which is legally obliged to seek EDPS guidance on any legislative proposal, as well as on any recommendation or proposal to the Council in the context of international agreements, where there is an impact on data protection²⁵.
- **Formal comments:** similar to the opinions, formal comments are issued in response to a mandatory request from the EC, which is also legally obliged to seek EDPS guidance when preparing delegated acts or implementing acts with an impact on data protection²⁶.
- **Informal comments:** the EC is encouraged to consult the EDPS informally before adopting a proposal which has an impact on data protection. This allows the EDPS to provide the EC with input at an early stage of the legislative process, usually at the stage of the inter-service consultation. Informal comments are, in principle, not published.

²⁴ Keeping of registry, assessment of the risk, notification to the EDPS, notification to the data subjects etc.

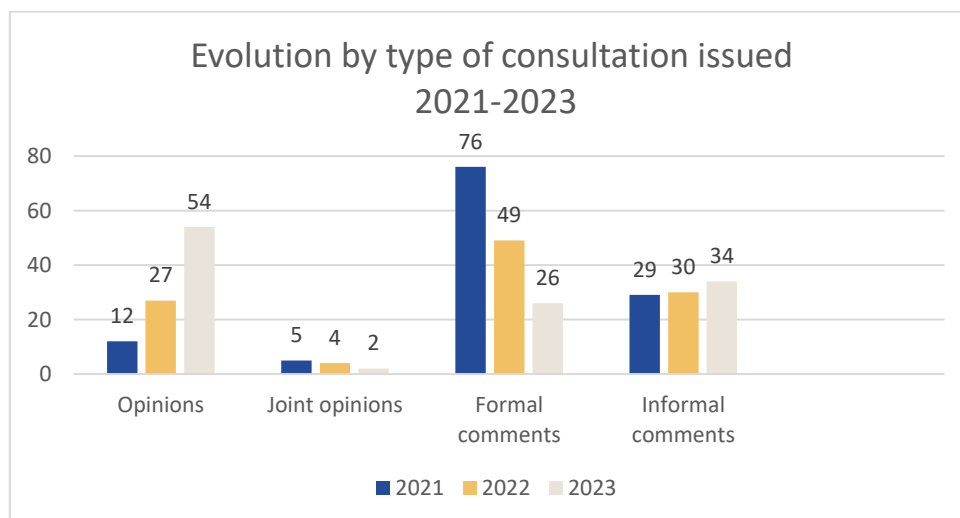
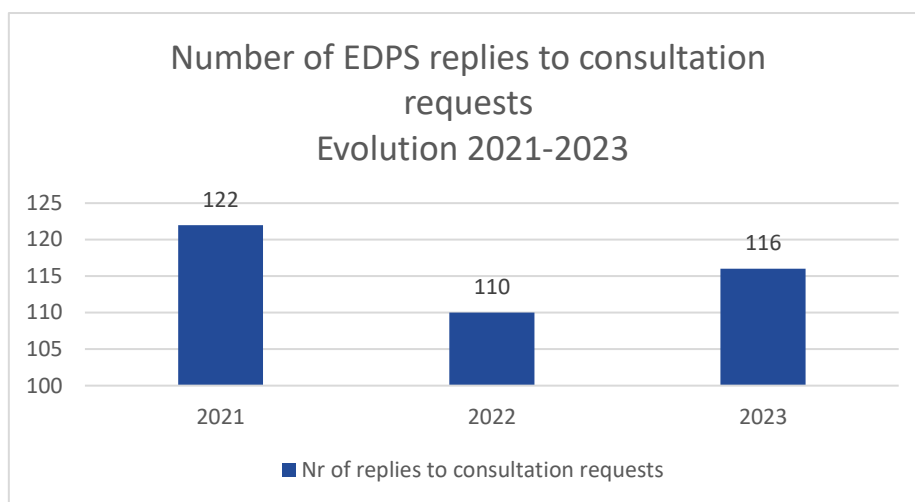
²⁵ Article 42(1) of Regulation (EU) 2018/1725. Opinions, as well as their summaries in all official languages of the EU, are available on the EDPS website and published in the Official Journal. Opinions highlight our main data protection concerns and recommendations on legislative proposals or other measures. They are issued in response to a request from the Commission and are addressed to the EU co-legislator.

²⁶ Article 42(1) of Regulation (EU) 2018/1725. Formal Comments are published on the EDPS website.

- Joint EDPS-EDPB opinions: where a legislative or other relevant proposal is of particular importance for the protection of personal data, the EC may also consult the EDPB. In such cases, the EDPS and EDPB work together to issue a joint opinion²⁷.

1. Legislative consultations

The statistics provided below clearly demonstrate that the number of requests for legislative consultation has remained significantly high in 2023. There was also an increase in the number of opinions and informal comments in 2023²⁸.



Timelines vary from a few days in the case of an urgent consultation to eight weeks for an opinion on a legislative proposal or an opinion on a prior consultation (according to EUDPR). These short timelines, and the large number of cases in relation to the small size of the EDPS, necessitate careful planning and monitoring to allow planning and executing other, proactive activities, so far as possible

²⁷ See EDPS Rules of Procedure

²⁸ Since the beginning of 2022, the EDPS no longer issues Formal Comments in response to requests for legislative consultation that concern a proposal for a legislative act or a recommendation or proposal to the Council pursuant to Article 218 TFEU, which explains the relative increase in the total number of Opinions and relative decrease in Formal Comments in 2022. This practice has been reflected in the updated EDPS RoP. See Decision of the European Data Protection Supervisor of 14 October 2022 amending the RoP of the EPDS of 15 May 2020, O.J. 24.10.2022 L 274/80.

within these constraints. The high number of the legislative consultation activities has kept the related translation costs high.

a) Formal

In 2023, the EDPS responded to **82 formal legislative consultations** pursuant to Article 42(1), issuing **54 opinions** and **26 formal comments**. In addition, **two joint opinions** (see under [joint opinions](#)) were adopted with the EDPB pursuant to Article 42(2) EUDPR. Additional cooperation and coordination is required for joint opinions with the EDPB.

b) Informal

The statistics for 2023 also reflect an increased expectation on the Commission's services side that the EDPS should be involved and provide advice at the informal stage of preparation of legislative/policy proposals. In this context, the EDPS issued **34 informal comments** in 2023, in addition to other forms of providing informal assistance (which may include attending workshops, expert meetings and sometimes inter-service meetings, responding to public consultations, targeted consultations, or providing inputs to external studies) and follow-up requests.

Growing awareness of data protection issues also results in requests from EP, its committees (LIBE, IMCO, ECON) and/or individual (shadow) rapporteurs for comments or opinions on compromise amendments or possible outcomes of trilogue negotiations. Another increasing phenomenon is the invitations from relevant working parties of the Council to present EDPS opinions. The Supervisor and EDPS staff regularly respond to such invitations and requests. While the Unit within the EDPS in charge of legislative consultation has grown slightly since 2018, its increase in staffing is still not commensurate to the overall increase of workload. The substantial increase in consultation requests is also one of the main reasons why there has been a decrease in the number of own-initiative opinions issued by the EDPS.

c) Seminars

In the context of its role of advisor to the co-legislature, the EDPS organised two seminars in 2023:

1. Seminar on the Proposal for a Regulation to combat child sexual abuse material

On 23 October 2023, the EDPS organised a seminar dedicated to the ongoing legislative works on the EC's Regulation proposal on Child Sexual Abuse Material (CSAM). The CSAM proposal aims to prevent and combat child sexual abuse online by detecting the dissemination of child sexual abuse material and grooming. Whilst there is a consensus about the paramount importance of combatting child sexual abuse, many stakeholders question the effectiveness, necessity and proportionality of the proposed measures.

With more than 300 people attending either in-person or remotely coming from governmental organisations, civil society, academia and industry, the seminar provided an opportunity for a detailed discussion of the main issues at stake. Special consideration was given to the effectiveness, accuracy and legality of detection orders as envisaged by the CSAM proposal. The seminar also

provided an opportunity to discuss alternative measures to effectively tackle child abuse and its perpetuation on the internet²⁹.

2. Seminar on the essence of the fundamental rights to privacy and data protection

On the 8 November 2023, the EDPS organised a seminar on the essence of the fundamental rights to privacy and data protection. The seminar, attended by judges of the European Court of Human Rights (ECHR), the CJEU, high-level experts from academia and from EU Institutions, provided the opportunity for an insightful debate on an important aspect of the fundamental rights to privacy and data protection. More specifically, the seminar focussed on:

- the meaning of the ‘essence’ requirement in EU fundamental rights’ law in general, having regard to the relevant jurisprudence of the CJEU, as well as of the ECHR and of national courts;
- the meaning of the ‘essence’ requirement as regards the right to the protection of personal data as fundamental rights in particular;
- possible criteria to determine when a limitation of the right to privacy or data protection be regarded as a breach of the essence requirement.

During the seminar a study on the essence of the fundamental right to personal data protection, which was carried out by Prof. Dr. Gloria González Fuster was presented at the request of the EDPS.

2.1.4. Advocacy and Cooperation

The EDPS is an influential actor and a reputed voice when it comes to the discussion of privacy and data protection topics. In addition to organising our IPEN event that brings together privacy engineers and technology monitoring projects that aim to contribute to the wider debate on foresight within the EUIBAs, both the EDPS management and senior staff participate in events and conferences as part of the institution’s policy making efforts.

In 2023, the EDPS and the EDPS Secretary-General contributed as a speaker in events as relevant as the Computers, Privacy and Data Protection (CPDP) conference in Brussels, the Privacy Symposium Conference in Venice, ENISA’s Annual Privacy Forum in Lyon, the IAPP Global Privacy Summit in Washington, the First Privacy Symposium in Japan or the EDEN Conference in Madrid.

The EDPS organised and moderated a panel in the event “Data Spaces in EU: Synergies between data protection and data spaces, EU challenges and the experiences of Spain” co-organised by the Spanish DPA and ENISA.

2.1.4.1. Cooperation with other EUIBAs and participation in Regulatory Boards

1. High-level Group for the Digital Markets Act

As a member of the High Level Group (HLG) established under Article 40 of the Digital Markets Act (DMA), the EDPS has, together with the EDPB, participated in the two first meetings of the HLG. The DMA tasks HLG members to provide the EC with advice and expertise in the areas falling within the competences of its members, including with a view of promoting a consistent regulatory approach

²⁹ https://www.edps.europa.eu/data-protection/our-work/publications/events/2023-10-23-edps-seminar-csam-point-no-return_en

across different regulatory instruments. Upon the request of the EC, the EDPS and EDPB provided a joint contribution to the public consultation on the draft template relating to the description of consumer profiling techniques pursuant to Article 15 DMA .

2. European Data Innovation Board

Both the EDPS and EDPB are members of the European Data Innovation Board (EDIB), an expert group established under Article 29 of the Data Governance Act (DGA) and chaired by the EC. The tasks of the EDIB include advising and assisting the EC with regard to:

- developing a consistent practice for data altruism and for the registration of data intermediation services and data altruism organisations,
- developing the European data altruism consent form;
- the prioritisation of cross-sector standards for data use and sharing between emerging common European ‘data spaces’; and
- guidelines for common European data spaces.

The first inaugural meeting of the EDIB took place in December 2023.

3. Inter-institutional Committee for Digital Transformation (ICDT)

The work of the ICDT is organised in various subgroups that may further divide work in taskforces. The ICDT Plenary session with the high-level IT managers of all EUIBAs meets once per quarter to mandate and oversee the work. The EDPS attends the Plenary meetings and other meetings only on an ad-hoc basis if there is an interest of the EDPS. Given the numerous meetings on various levels, the EDPS has currently no complete picture of the work of all subgroups.

Generally, the ICDT meetings offer valuable insights in the digital transformation processes of EUIBAs that could also inform the EDPS priorities in terms of technology monitoring and supervision. Furthermore, the ICDT meetings offer a prime occasion to pass messages from the EDPS to all other IT Directors. The EDPS used this channel to inform about on-going supervisory activities and raise awareness on novel technologies to protect better confidential communication.

2.1.4.2. International cooperation

As data flow across borders, there is a need to consider data protection in a global context. In 2023, the EDPS actively participated in a number of international fora with the aim of sharing information and best practices, finding common ground and developing guidance, and working together to promote high standards on data protection. International cooperation is achieved through the following channels and initiatives:

1. Global Privacy Assembly

The EDPS is an active member of the Global Privacy Assembly (GPA)³⁰ and former host of the 2018 Conference that gathered more than 1000 delegates discussing digital ethics and the challenges of a data driven society.

The EDPS, jointly with the French data protection authority (CNIL), co-chairs the GPA working group on Ethics and Data Protection in Artificial Intelligence (AIWG). The EDPS also takes part to other GPA working groups³¹. The 45th GPA conference took place between the 15th and 20th of October 2023 in Bermuda. The conference was hosted by the Personal Data Protection of Bermuda, and brought together GPA members and observers from all over the world to consider key data protection challenges. The outcome of the conference was a number of resolutions on very important topics³².

Building on previous work done at the level of the G7 DPAs Roundtable, the EDPS acted as main sponsor on a GPA resolution on generative AI systems. This Resolution³³ underlines that data protection and privacy principles and current laws, including data protection and privacy laws, bills, statutes and regulations, apply to generative AI products and services, even as different jurisdictions continue to develop AI-specific laws and policies. GPA members consider presenting, at the 46th GPA in Jersey, an interim report on the work conducted by the AIWG on generative AI systems, and finally consider additional policy documents or resolutions to be presented at the 47th GPA that is scheduled to take place in Korea.

2. Council of Europe (CoE)

The EDPS also follows the activities of the Consultative Committee of the Convention 108 (T-PD) and represents the GPA before the T-PD. The EDPS participates in T-PD as an observer and its role involves ensuring a high standard of data protection and compatibility with EU data protection standards.

The activities of the T-PD are diverse and concern topics of strategic impact³⁴ for the EDPS. With the modernisation³⁵ of the Convention 108³⁶, a very important and strategic follow-up mechanism has been created which also creates additional tasks for the T-PD. At the end of 2023, 31 States have ratified the Amending Protocol and seven ratifications are still required for the entry into force of the modernised Convention 108. The EDPS also represents the GPA before the T-PD.

Still at the CoE, the EDPS participates to meetings of the Committee on AI (CAI)³⁷ that has been tasked by the Committee of Ministers of the CoE to elaborate a Convention on the development,

³⁰ <https://globalprivacyassembly.org/> previously known as the International Conference of Data Protection and Privacy Commissioners, ICDPPC

³¹ Global Frameworks and Standards, Digital Economy, Data Protection and Other Rights Freedoms, International Enforcement Cooperation, Digital Citizen and Consumer, The Role of Personal Data Protection in International Development Aid, International Humanitarian Aid and Crisis Management, Data Sharing, etc

³² <https://globalprivacyassembly.org/document-archive/adopted-resolutions/>

³³ https://www.edps.europa.eu/system/files/2023-10/edps-gpa-resolution-on-generative-ai-systems_en.pdf

³⁴ Facial recognition, artificial intelligence, oversight by intelligence services, digital identity, processing of personal data in the context of political activities and elections, contractual clauses in the context of trans-border data flows, inter-state exchanges of data for Anti-Money Laundering/Countering Financing of Terrorism, and tax purposes, data protection and neurosciences, etc

³⁵ <https://www.coe.int/en/web/data-protection/convention108/modernised>

³⁶ <https://www.coe.int/en/web/conventions/full-list?module=treaty-detail&treatynum=108>

³⁷ <https://www.coe.int/en/web/artificial-intelligence/cai>

design, and application of AI systems based on the CoE's standards on human rights, democracy and the rule of law, and conducive to innovation.

3. Organisation for Economic Co-operation and Development (OECD)

The work of the OECD is becoming increasingly relevant for the EDPS. The OECD's work on data governance and privacy is carried out by the Working Party on Data Governance and Privacy in the Digital Economy³⁸ (DGP), which reports to the OECD Committee on Digital Economy Policy (CDEP).

The DGP develops and promotes evidence-based policies on data governance and privacy. It is composed of delegates from the 38 member countries of the OECD, including in particular representatives of governments and data protection authorities (or equivalent). The EDPS is therefore following the activities of the DGP, in particular on questions linked to Data Free Flow with Trust, on government access to data held by private entities, on enforcement cooperation or on Privacy Enhancing Technologies.

The EDPS is also part of the Privacy Guidelines Expert Group and follows the activities of the Working Party on Artificial Intelligence Governance (AIGO).

4. Cooperation with international organisations

One way for the EDPS to generate and foster global partnerships in the field of data protection is to co-organise annually, dedicated workshops with international organisations. Since 2005 when the practice was initiated, its relevance and significance have consistently grown. This confirms the need for this platform for international organisations to engage, share best practices and discuss common challenges, as well as increasing awareness on the importance of protecting individuals' personal data around the world.

In October 2023, the EDPS and INTERPOL co-hosted the International Organisations Workshop on data protection³⁹, in Lyon, at the INTERPOL General-Secretariat.

5. G7 Data Protection Authorities (DPAs) roundtable

In June 2023, the EDPS participated in a Roundtable of G7 DPAs in Tokyo, Japan, at the invitation of the Japanese DPA in the context of the Japanese Presidency of the "Group of Seven"⁴⁰. The EU was represented by the EDPS together with the EDPB. During this roundtable, the G7 DPAs heard from the activities of various international organisations and networks⁴¹ and took stock of the work carried out in the working groups of the G7 DPAs. The discussions led to the adoption of a) a communiqué⁴², b) an action plan⁴³ and c) a statement on generative AI⁴⁴.

³⁸ <https://www.oecd.org/digital/ieconomy/information-security-and-privacy.htm>

³⁹ https://www.edps.europa.eu/data-protection/our-work/publications/events/2023-10-24-international-organisations-workshop-data-protection-2023_en

⁴⁰ "Group of seven" is an inter-governmental political forum consisting of Canada, France, Germany, Italy, Japan, the United Kingdom, and the United States, as well as the EU.

⁴¹ Asian Pacific Privacy Authorities, GPA, OECD and Global Privacy Enforcement Network

⁴² https://www.ppc.go.jp/files/pdf/G7roundtable_202306_communique.pdf

⁴³ https://www.ppc.go.jp/files/pdf/G7roundtable_202306_actionplan.pdf

⁴⁴ https://www.ppc.go.jp/files/pdf/G7roundtable_202306_statement.pdf

6. Spring Conference

The EU National DPAs and the CoE meet annually for a *Spring Conference* to address issues of common interest, emergent trends and new developments relating to the rights to privacy and data protection.

This conference also serves to promote cooperation between the different systems in Europe and between the professionals who work within these systems and to exchange best practices. A delegation of the EDPS participated in the 31st edition of this conference, held from 10-12 May in Budapest, Hungary. The outcome of the conference included the adoption of resolutions⁴⁵ on the RoP and the enhanced cooperation in the field of data protection and competition law.

7. Memorandum of Understanding (MoU) with the UK Information Commissioner's Office (ICO)

The EDPS and the ICO signed on 9 November 2023 a MoU⁴⁶, reinforcing common mission to uphold individuals' data protection and privacy rights, to elevate the global standards of data protection and cooperate internationally to achieve these goals. The MoU builds on the strong collaboration already established in other forums that both authorities mutually participate in, such as the GPA and the G7 DPAs Roundtable.

8. High-level event on "Data-protection in the Western Balkans and Eastern Partnership Region"

In September 2023, EDPS participated in the event "Data-protection in the Western Balkans and Eastern Partnership Region", arranged by the SIGMA Programme, the Eastern Partnership Regional Fund for Public Administration, the Regional Cooperation Council and the Regional School of Public Administration.

The event gathered DPAs and public institutions from 11 countries⁴⁷, sharing insights, unique perspectives, as well as challenges and opportunities they encounter when advocating for digital rights and the protection of individuals' personal data.

The EDPS shared recommendations as the independent DPA supervising EUIBAs, and as a member of the EDPB collaborating with other DPAs of the EU/EEA. The EDPS Secretary-General highlighted the importance of having DPAs working closely together, and demonstrate flexibility to keep up with the rapidly changing digital regulatory landscape, and the increasing development of technologies impacting data protection.

9. International Working Group on Data Protection in Technology (IWGDPT, aka Berlin Group)

The EDPS is part of the IWGDPT, composed of representatives of worldwide DPAs, as well as independent experts representing various sectors. The objective of the IWGDPT is to identify emerging technologies and deliver positions and practical advice on privacy-friendly and enhancing solutions with regard to data-related technologies and services.

⁴⁵ <https://www.springconference2023.hu/resolutions>

⁴⁶ https://www.edps.europa.eu/data-protection/our-work/publications/memorandum-understanding/2023-11-09-edps-ico-memorandum-understanding_en

⁴⁷ Albania, Armenia, Azerbaijan, Bosnia and Herzegovina, Georgia, Kosovo, Moldova, Montenegro, North-Macedonia, Serbia and Ukraine.

The EDPS took part in the IWGDPT/Berlin Group meetings held in 2023 in Rome and Ottawa and contributed to planned IWGDPT deliverables. This year the EDPS led the drafting of the Central Bank Digital Currency paper, now undergoing the written procedure for final adoption. The EDPS also actively supported the drafting of the paper on Telemetry and Diagnostics data, adopted this year. Overall, the EDPS work on technology monitoring and foresight underpins, together with other organisations, the plans of the Group for future papers and advice.

2.1.4.3. Cybersecurity Cooperation

1. Memorandum of understanding with the European Union Agency for Cybersecurity (ENISA)

In November 2022, the EDPS and the ENISA signed a MoU to enable a strategic cooperation on designing, developing and delivering capacity building, awareness-raising activities as well as on policy related matters of common interest. Based on this MoU, the EDPS and ENISA agreed in 2023 to the strategic action plan 2023-25. This plan aims to promote a joint approach to cybersecurity aspects of data protection as well as to the adoption of privacy enhancing technologies, and strengthen the capacities and skills of the EUIBAs.

The plan includes a number of joint activities like the EDPS participation in ENISA's Annual Privacy Forum, ENISA's Ad-Hoc Working Group on Data Protection Engineering or in the JASPER cybersecurity exercise.

2. JASPER cybersecurity exercise

The EDPS took part in an annual cyber-exercise co-organised by ENISA and Computer Emergency Response Team for the EUIBAs (CERT-EU). The EDPS proposed adding context to one of the scenarios to raise the awareness of staff managing security incidents, mainly IT personnel, on the fact that a cybersecurity incident might also be a personal data breach. These teams would need to be aware so as to trigger the internal personal data breach management processes that will allow the EUIBAs to comply with the legal requirements of Article 34 & 35 of EUDPR on personal data breaches.

2.1.5. Technology monitoring tasks

Technology Monitoring is an increasingly important task of the EDPS. It is a legal obligation under Art.57(h) of the EUDPR and enables the EDPS to assess the impact of technological developments on the protection on personal data. The foresight dimension of technology monitoring assists in anticipating the challenges of a rapidly evolving technological world and get prepared in a more effective and efficient way. In 2023, the EDPS enhanced its technological assessment readiness as well as digital innovation capacity, while continuing to interact with the public and privacy experts in the field.

1. TechDispatches

In 2023, the EDPS published TechDispatches on two hot topics: Central Bank Digital Currency⁴⁸ and Explainable AI (XAI)⁴⁹. The EU is currently in the process of designing the Digital Euro, its own Central Bank Digital Currency (CBDC). Similarly, many other jurisdictions around the world have adopted or are considering adopting CBDCs.

The CBDC TechDispatch, released in March 2023, explained in layman's terms what CBDCs are, exploring the main design options considered for CBDCs and what their potential privacy issues are. In November 2023, the TechDispatch on XAI was published. The purpose of XAI systems is to make their behaviour understandable to humans, by providing explanations for the underlying decision-making processes.

This issue points to some risks of opaque AI systems, explains what XAI is and what the different approaches to it are. It also links XAI capacities and limitations with data protection principles and obligations.

2. TechSonar and Tim Analytics (JRC cooperation)

In December 2023, the EDPS published its 3rd issue of the TechSonar initiative. The EDPS regularly publishes TechSonar reports that cover emerging technologies. TechSonar is the first European initiative that bridges the gap between data protection and strategic forecasting, foresight, and future studies. By combining these fields, it addresses future technological challenges.

This issue continues to benefit from the collaboration with the EC Joint Research Centre's TIM Analytics service to identify emerging technologies that could have an impact on data protection and privacy.

The TechSonar report 2023-2024⁵⁰ explores five emerging technologies: large language models (LLMs), digital identity wallet, internet of behaviours, extended reality and deepfake detection. For each of these technologies, the report gives a short description, lists some potential positive and negative impacts on data protection and then provides a short list of suggested readings.

In October, the EDPS was awarded the GPA Global Privacy and Data Protection Awards 2023 in the category innovation for the TechSonar initiative. The Global Privacy and Data Protection Awards are an initiative of the GPA. The network connects over 130 data protection and privacy authorities globally. The innovation category emphasizes projects that exemplify forward-thinking and adaptive measures in response to disruptive technological models.

3. IPEN

The EDPS founded the IPEN initiative in 2014 to promote and advance the state-of-the-art of privacy engineering. Since then, the EDPS has been organising every year one or more IPEN events or workshops around different privacy engineering related topics. They are usually organised close to the ENISA Annual Privacy Forum. In September 2024, another IPEN event is planned in Karlstad, Sweden.

⁴⁸ https://www.edps.europa.eu/data-protection/our-work/publications/techdispatch/2023-03-29-techdispatch-12023-central-bank-digital-currency_en

⁴⁹ https://www.edps.europa.eu/data-protection/our-work/publications/techdispatch/2023-11-16-techdispatch-22023-explainable-artificial-intelligence_en

⁵⁰ https://www.edps.europa.eu/data-protection/our-work/publications/reports/2023-12-04-techsonar-report-2023-2024_en

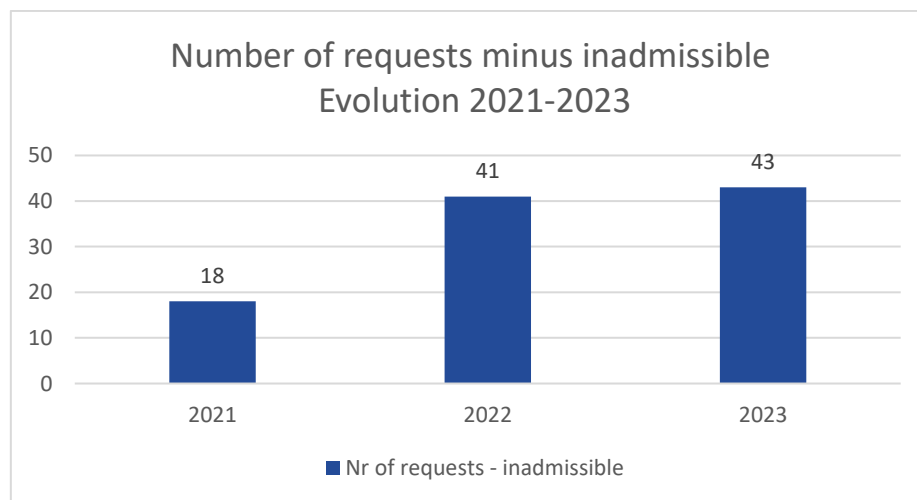
In May 2023, the EDPS hosted an IPEN event⁵¹ aimed to explore the purpose, capacities and limitations of Explainable AI (XAI) systems. For this endeavour, the EDPS brought together privacy experts and engineers from public authorities, industry, academia and civil society to discuss the expectations regarding XAI, its limitations and misunderstandings.

2.1.6. Data Protection Activities

During 2023, the Data Protection Officer (DPO) worked together with delegated controllers for enhancing the EDPS' data protection compliance and accountability.

The DPO monitors the practical application of data protection rules and procedures in light of the legal provisions (namely EUDPR), case law and relevant guidance. The EDPS' register of personal data processing activities was regularly updated with new and/or updated records. At the same time, for ensuring transparency and providing appropriate information to data subjects, new and updated data protection notices were made available.

In 2023, the DPO processed 43 data subjects' requests (excluding inadmissible requests). More specifically, the EDPS replied to 22 access requests, 11 erasure requests, 2 information requests, three rectification requests, four objection requests, one consent withdrawal and 24 inadmissible requests. In certain cases, individuals exercised more than one data protection right, such as access and information requests.



Last year, the DPO also provided assistance in handling three personal data breaches that, owing to the low risk to the rights and freedoms of natural persons, were not notified to the supervisory authority.

During the reference period, the DPO delivered a number of training sessions and carried out awareness raising activities about data protection. Data protection is also part of the training that new EDPS colleagues receive upon joining the organisation.

The DPO continued its collaboration with the DPOs of other EUIBAs, allowing for the valuable exchange of expertise and best practices in various formats, such as regular meetings and working groups on specific topics. More precisely, the DPO participated in the biannual meetings of the

⁵¹ https://www.edps.europa.eu/ipen-event-explainable-artificial-intelligence-xai_en

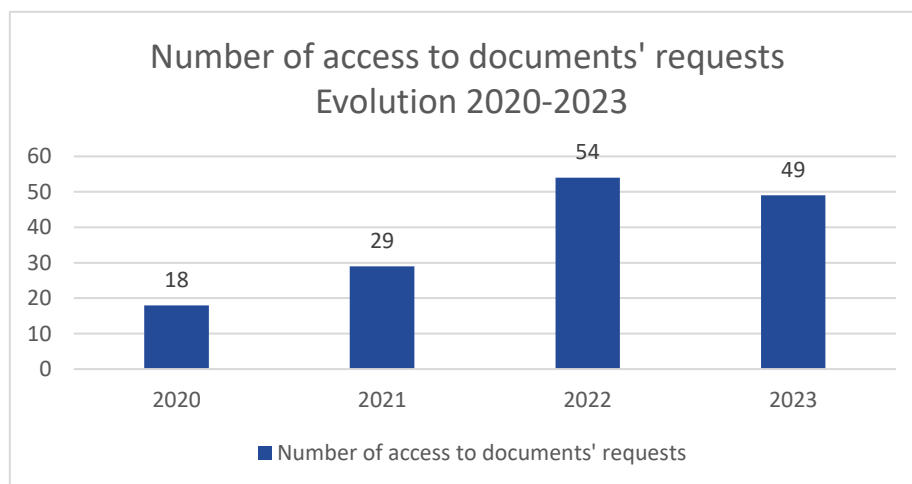
network of the EUIBAs DPOs in May and November 2023 respectively. The DPO also took part in the regular meetings organised by the EDPB's DPOs' network, comprising DPOs of EU Member States Data Protection Authorities (DPAs). For fostering cooperation and communication between the EDPS, as a DPA, and the EUIBAs' DPOs, two EDPS-DPOs roundtables were organised. These roundtables provide a forum of discussion on the application of data protection rules so as to ensure that individuals' personal data are adequately protected according to the EU's values and principles.

2.1.7. Access to documents

As an EUIBA, and according to the EDPS RoP, the organisation is subject to Regulation (EC) 1049/2001 on public access to documents. Within the EDPS, one FTE has been designated as Transparency officer, for handling these requests. For each request submitted to the EDPS, the Transparency officer collaborates with the relevant staff members for responding appropriately to the request.

In 2023, the EDPS received 49 access to documents requests. In five of these cases (10% in 2023, against 5% in 2022), confirmatory applications (appeals) were also received. In all cases where documents could be identified, they were either fully or partially disclosed to the applicant.

EDPS remains fully committed to increasing transparency and accountability of the work done and aims to update the website, and the public register in particular, with relevant documents and information on a regular basis.



2.1.8. Communication

The EDPS strives to be transparent, clear and accessible to all, on what it is doing and why. To this end, and with the aim of diversifying EDPS online presence, the organisation has built, and continues to expand, a strong online presence, on traditional social media channels, namely **X (ex-Twitter)**, **LinkedIn** and **YouTube**, as well as on new alternative **social media channels**, **EU Voice** and **EU Video**⁵², and through regular social media campaigns. LinkedIn remains the fastest-growing channel for the EDPS with the highest number of actively engaged followers.

The **EDPS website** is the main communication channel. It is where latest news, press releases, newsletters, podcasts, videos, as well as legal publications, such as opinions, formal comments, to

⁵² Launched in February 2022

name a few are published. For maintaining a **user-friendly** website, the migration of the website to Drupal 9, which was started at the end of 2021, was completed. New filters to facilitate the search of different publication categories were added and also the **eTranslation widget** was introduced for obtaining quick raw machine translations of a text into any official EU language.

The **@EU_EDPS X account** allows the organisation to promote its presence at a variety of events and to feature the core messages and purpose of the EDPS work.

The EDPS YouTube channel was the essential tool in promoting the EDPS Conference on ‘The Future of Data Protection: Effective Enforcement in the Digital World’ in 2022, before, during, and after the event to retrace and highlight the important discussions held at the time.

On **EU Voice**, short posts are published about the organisation’s work, such as opinions, latest press releases, and consultations, which followers can comment on and interact, bookmark a publication, share with others, and more. On **EU Video**, short informational videos on EDPS activities are published, podcast episodes, as well as video recordings of past events.

Using the various social media channels, the EDPS carried out **campaigns** - also in partnership with other EUIBAs - to increase the outreach and keep audience well-informed about data protection activities such as the European Cybersecurity Month (October 2023) and past initiatives that interested audience may have missed, eg. #InCaseYouMissedIt campaign.

Since the GDPR entered into force and following the COVID-19 crisis, the EDPS work has attracted new audience, both experts and non-experts in data protection. To match this new interest, the EDPS continued to deliver **Newsletter**, now counting over 6000 subscribers. In 2023, eight newsletters were published. Each issue of the EDPS newsletter covered between seven to 15 topics, ranging from the EDPS’ technology monitoring activities, the latest opinions and formal comments, supervision and enforcement actions, the EDPS’ work as a member of the EDPB, events that the EDPS organised or participated in, to name a few examples.

As of end of 2022, complemented the Newsletters with the **EDPS Newsletter Digest** and a new **EDPS Podcast Series**. The latter discusses various EDPS topics in 10 minutes.

The **EDPS blog** is a platform through which the Supervisor, the EDPS Secretary-General and the EDPS’ middle management, communicate on a more personal level their thoughts, opinions and activities, as well as the EDPS’ work in general. In 2023, eight blogposts were published on an array of subject matters.

Diversifying the way of communication and ensuring engagement with the topic of data protection, is one of the core goals. One effective way to do this is through the publication of **Factsheets** and **Infographics**: a one-page document breaking down a key concept of data protection in a clear, concise, and visually-pleasing way.

Last but not least, in 2023, 13 **press releases** were issued covering several different areas related to data protection, digital privacy, enforcement and new technological developments. Press releases aim to inform journalists and other key stakeholders about significant data protection developments and activities that the EDPS contributes to.

2.2. European Data Protection Board Secretariat

The European Data Protection Board Secretariat⁵³ (EDPBSec) offers analytical, administrative and logistical support to the EDPB. The EDPBSec is composed of five sectors (a sector for legal affairs - cooperation and enforcement, a sector for litigation and international affairs, an information and communications sector, an IT sector and an administrative sector). Staff at the EDPBSec is employed by the EDPS and works under the instructions of the Chair of the EDPB. The terms of cooperation between the EDPB and the EDPS are established by the MoU⁵⁴. The EDPBSec consists of 39 staff members. In addition seven staff members work within the EDPS for the support provided to the EDPBSec via horizontal administrative services.

The EDPB budget forms part of the broader budget of the EDPS. For 2023, the adopted budget of the EDPB amounted to EUR 7.67M. This budget supports the growth of enforcement and litigation activities, and covers expenditure for EDPB meetings at the plenary and subgroup level, translation and interpretation costs, IT services, and remuneration of the EDPBSec staff. An amending budget of EUR +300k was granted during 2023 due to the significant increase in litigation activities.

2.2.1. Analytical support to EDPB activities for the year

The EDPBSec plays a key role in the preparation and execution of many of the tasks entrusted to the EDPB, and thus in harmonising the guidance, procedures, enforcement processes and practices of Supervisory Authorities (SAs) across Member States.

1. Binding decisions

All 2023 binding decisions⁵⁵ were drafted by the EDPBSec, in close collaboration with the Members, before they are adopted by the Board. They often set a precedent by settling disputes on key legal issues and, at the same time, fines adopted following an EDPB binding decision are usually very significant.

In 2023, the EDPB adopted two Art. 65 binding decisions and one Art. 66 urgent binding decision, addressing a range of issues from data protection by design and by default, the principle of fairness, the processing of children's personal data, international transfers of data and the legal bases for behavioural advertising.

In April 2023, the EDPB settled a dispute regarding a fine against Meta Platforms Ireland Limited (Meta IE), and an order to bring processing into compliance, in its **Binding Decision 1/2023**⁵⁶ on the dispute submitted by the Irish SA on data transfers by Meta IE for its Facebook service (Art. 65 GDPR). Following this binding decision, Meta IE was issued a EUR 1.2 billion fine by the Irish DPA. This fine was imposed for Meta's transfers of personal data to the United States on the basis of standard contractual clauses (SCCs) since 16 July 2020. Furthermore, Meta IE was ordered to bring its data transfers into compliance with the GDPR.

In August 2023, the EDPB resolved a dispute on the draft decision of the Irish DPA on the processing of personal data of users between the ages of 13 and 17 by TikTok Technology Limited (TikTok IE). In

⁵³ https://www.edpb.europa.eu/about-edpb/who-we-are/edpb-secretariat_en

⁵⁴ Signed on 25 May 2018

⁵⁵ https://www.edpb.europa.eu/our-work-tools/consistency-findings/binding-decisions_en

⁵⁶ https://www.edpb.europa.eu/our-work-tools/our-documents/binding-decision-board-art-65/binding-decision-12023-dispute-submitted_en

its **Binding Decision 2/2023**⁵⁷ on the dispute submitted by the Irish SA regarding TikTok Technology Limited (Art. 65 GDPR), the EDPB analysed the design practices implemented by TikTok in the context of two pop-up notifications shown to children aged 13-17: the Registration Pop-Up and the Video Posting Pop-Up. The analysis found that both pop-ups failed to present options to the user in an objective and neutral way. Following the EDPB's binding decision, the Irish DPA issued a final decision, finding, in particular, that TikTok IE infringed the GDPR's principle of fairness when processing personal data relating to children between the ages of 13 and 17 and imposed a reprimand, a compliance order and a fine of EUR 345 million.

Following the EDPB's **urgent binding decision**⁵⁸ 1/2023 of 27 October 2023, the Irish DPA adopted its final decision on 10 November 2023, imposing a ban on Meta IE for the processing of personal data for behavioural advertising purposes on the basis of contract and legitimate interest. This decision followed a request from the Norwegian DPA to order final measures which would have effect in the entire European Economic Area (EEA).

2. Consistency opinions

DPA's may seek consistency opinions⁵⁹ from the EDPB under Art. 64(1) GDPR on any matter pertaining to the general application of the GDPR or any issue producing effects in more than one EU country. Following a consistency opinion, DPA's adopt their national decisions.

The EDPB can adopt different types of opinions addressed to DPA's, including: opinions on draft decisions regarding Binding Corporate Rules (BCRs), opinions on draft requirements for the accreditation of a certification body, opinions on certification criteria and opinions on DPA's approval of accreditation requirements for a code of conduct monitoring body.

In 2023, the EDPB has adopted **35 consistency opinions** in total, out of a total of 190 opinions adopted since 2018. For the vast majority of these opinions the EDPBSec held the pen. This way, starting from a theoretical description of new compliance tools introduced in the GDPR, the EDPB has built a framework for the new compliance tools, such as codes of conduct and certification mechanisms, to become operational in a consistent manner.

3. General guidance

One of the EDPB's core competences is to clarify the GDPR by issuing guidance. As such, the EDPB established a well-defined and comprehensive repository of guidelines and recommendations⁶⁰, which continues to expand. This ensures that DPA's apply data protection laws consistently and it further strengthens stakeholder compliance. The EDPB makes a consistent effort to incorporate stakeholder input, which is collected via public consultation.

⁵⁷https://www.edpb.europa.eu/our-work-tools/our-documents/binding-decision-board-art-65/binding-decision-22023-dispute-submitted_en

⁵⁸https://www.edpb.europa.eu/our-work-tools/our-documents/urgent-binding-decision-board-art-66/urgent-binding-decision-012023_en

⁵⁹https://www.edpb.europa.eu/our-work-tools/consistency-findings/opinions_en?f%5B0%5D=opinions_date%3A2023&f%5B1%5D=opinions_publication_type%3A61

⁶⁰https://www.edpb.europa.eu/our-work-tools/general-guidance/guidelines-recommendations-best-practices_en

In 2023, the EDPB adopted **two new guidelines** (on the Technical Scope of Art. 5(3) of the ePrivacy Directive and on Article 37 of the Law Enforcement Directive) and updated **nine guidelines** following public consultation.

4. Legislative consultation

In the context of legislative consultations requested by the EC, the EDPB adopts opinions on issues pertaining to data protection in the EU. Opinions may be adopted solely by the EDPB or jointly with the EDPS (see [Joint Opinions](#)). The EDPB may also advise the EC on the assessment of the adequacy of the level of protection in a third country.

Regarding cooperation with third countries, the EDPB provided the **Opinion 5/2023**⁶¹ in February 2023 on the EC's draft implementing decision on the adequate protection of personal data under the EU-US Data Privacy Framework. Adequacy decisions, which are negotiated by the EC, are a key instrument of the GDPR for data transfers, and require the EDPB's consultation.

5. Enforcement cooperation

As part of its strategy, the EDPB supports efficient functioning of the cooperation and consistency mechanism linking all national supervisory authorities, which work together to enforce European data protection law, by streamlining internal processes, combining expertise and promoting enhanced coordination.

Several programmes have been launched to this end. The EDPBSec has a leading role in implementing and coordinating the following programmes:

- the **Support Pool of Experts**⁶² (SPE): The SPE provides support in the form of expertise for investigations and enforcement activities of common interest to DPAs and enhances cooperation/solidarity by reinforcing and complementing the strengths of the individual DPAs and addressing operational needs. Today, the EDPB counts 486 experts on its reserve list. So far, 13 experts of the SPE have assisted the EDPB on projects initiated by either a DPA or the EDPB itself. A total of 13 projects, some of which are on AI-related matters, have been launched since July 2022.

In June 2023, the EDPB organised a **boot camp on website inspections**, where it invited several DPA experts. This event was a great occasion to use and discuss the new EDPB website auditing tool developed in the framework of the SPE. A second boot camp will be organised in 2024.

- the **Coordinated Enforcement Framework**⁶³: For its 2023 Coordinated Enforcement Action⁶⁴, the EDPB selected 'the Designation and Position of Data Protection Officers'. Throughout 2023, 25 DPAs across the EEA conducted coordinated investigations on the designation and position of Data Protection Officers (DPOs). Various organisations, as well as individual DPOs were contacted across the EEA, covering a wide range of sectors (both public and private entities), and more than 17 000 replies were received and analysed. Extensive data was collected offering valuable insights into the profile, position and work of DPOs five years after the entry into application of the GDPR.

⁶¹ https://www.edpb.europa.eu/system/files/2023-02/edpb_opinion52023_eu-us_dpj_en.pdf

⁶² https://www.edpb.europa.eu/support-pool-experts-spe-programme_en

⁶³ https://www.edpb.europa.eu/news/news/2024/edpb-identifies-areas-improvement-promote-role-and-recognition-dpos_en

⁶⁴ https://www.edpb.europa.eu/our-work-tools/our-documents/other/coordinated-enforcement-action-designation-and-position-data_en

- the **EDPB Secondment programme**: the EDPB secondment programme enables staff exchanges among DPAs, including the EDPBSec. To date, the secondment programme has enabled 22 officers to visit 15 host authorities (13 national SAs, EDPS and EDPB) between the summer of 2022 and the summer of 2023. Following the very positive feedback on the pilot secondment programme, the EDPB plenary decided in February 2024 to set up definitive secondment programme.

Moreover, the EDPB promotes transparency and to this end the EDPBSec maintains a **register**⁶⁵ with all the final decisions taken by National DPAs under the cooperation mechanism called the “One-Stop-Shop” and aiming to offer harmonised enforcement on cross-border cases. The EDPBSec also produces **case digests**⁶⁶, offering valuable insights on how DPAs have interpreted and applied GDPR provisions.

6. Litigation

In 2023, the EDPB was involved as a party in **12 cases** before the **CJEU**, of which ten⁶⁷ were submitted in 2023, one⁶⁸ at the end of 2022 and one⁶⁹ in 2021. The vast majority of the cases concerned applications for annulment against EDPB binding decisions⁷⁰.

In the context of these proceedings, the EDPBSec worked closely with external lawyers throughout the different stages of the proceedings, for defining the EDPB’s defence strategy and drafting procedural documents⁷¹. In addition, the EDPB was also involved as an intervener in one⁷² case, in support of the EDPS.

7. Coordinated Supervision Committee

The Coordinated Supervision Committee (CSC) is a group of national SAs and the EDPS. It ensures coordinated supervision of large scale IT systems and of EU bodies, offices and agencies, in accordance with Article 62 of EUDPR or with the EU legal act establishing the large scale IT system or the EU body, office or agency.

The EDPBSec provides the Secretariat of the CSC and offers analytical, administrative and logistical support. This support includes preparation of positions, organising CSC meetings and communication. In 2023, the CSC met four times.

In 2023, the activity of the CSC was extended to the supervision of the **Schengen Information System (SIS)**, in addition to the **Europol**, the **EPPO**, **Eurojust** and **IMI** that were already falling under the framework of the EDPB activities.

⁶⁵ https://www.edpb.europa.eu/our-work-tools/consistency-findings/register-for-article-60-final-decisions_en

⁶⁶ https://www.edpb.europa.eu/about-edpb/publications/one-stop-shop-case-digests_en

⁶⁷ T-183/23 *Ballmann v European Data Protection Board*; Joined cases T-70/23, T-84/23, 111/23 *Data Protection Commission v European Data Protection Board*; T-128/23 *Meta Platforms Ireland v European Data Protection Board*; T-129/23 *Meta Platforms Ireland v European Data Protection Board*; T-153/23 *WhatsApp Ireland v EDPB*; T-325/23 *Meta Platforms Ireland v European Data Protection Board*; T-1030/23 *TikTok Technology v European Data Protection Board* and C-97/23 P *WhatsApp Ireland v EDPB*.

⁶⁸ Case T-682/22 *Meta Platforms Ireland v EDPB*.

⁶⁹ Case T-709/21 *WhatsApp Ireland v European Data Protection Board*. In 2023, the EDPB dealt with the procedural aftermath of the Order of the General Court of 7/12/2023.

⁷⁰ In particular, 10 cases concerned actions for annulment against EDPB’s binding decisions, one case concerned access to the file and another case concerned an appeal lodged by a controller before the ECJ following a General Court order that dismissed that controller’s request for annulment of an EDPB binding decision.

⁷¹ For instance, the EDPB defence for 3 cases, the rejoinder for 2 cases and the application under Article 130(1) of the RoP of the General Court in 4 cases.

⁷² C-413/23 P *EDPS v SRB*

The addition of the European Travel Information and Authorisation System (ETIAS) to CSC was postponed to a few months after the start of the Entry and Exit System (EES).

In the near future, the interoperability will interconnect six EU-information systems, three existing systems (SIS, VIS and Eurodac) and three new systems, yet to be set up (EES, ETIAS and ECRIS-TCN).

2.2.2. Logistical and administrative support to the EDPB

2.2.2.1. International Compliance

1. Data Protection Activities

The EDPB processes personal data according to the rules laid down in EUDPR on the processing of personal data by the EUIBAs. In accordance with Art. 43 of this Regulation, the EDPB has its own DPO team, which is part of the EDPBSec. In 2023, the EDPB received five data subject requests made on the basis of rights enshrined in Art. 17 to Art. 24 of EUDPR. The EDPBSec also provided assistance with replying to individual requests for information involving the processing of their personal data, and supported in handling two data breaches under Arts. 34 and 35 of EUDPR which required a notification to the EDPS.

2. Access to documents

In accordance with Art. 32 (2) of the EDPB RoP, the EDPBSec prepares the answers to access requests of EDPB documents which are handled and signed by the Chair or one of the Deputy Chairs. In 2023, the EDPBSec received 39 public access requests for documents held by the EDPB. Confirmatory applications were received in two cases. A single complaint regarding an EDPB confirmatory decision for a request for access to documents was brought to the attention of the European Ombudsman (EO) in 2023. This complaint was about the EDPB's refusal to grant access to an assessment of the use of X (Twitter) by DPAs and the EDPB, including one annex. Following a reassessment of the two documents at issue, the EDPB decided to fully disclose them to the applicant. With the complaint being settled, the EO closed this inquiry and commended the EDPB for its decision in this case.

2.2.3. Communication, IT & Administration

The EDPB provides IT solutions to ensure secured and transparent communications between all the European National DPAs, handles media relations, and organises meetings.

An important awareness raising action in 2023 for which the EDPBSec took the lead was the publication of the **Data Protection Guide for Small Business**⁷³. This guide is a key initiative in the EDPB's 2021-2023 Strategy. It aims to provide practical information to SMEs about GDPR compliance in an accessible and easily understandable language. The main goal of the guide is to help raise awareness of the GDPR among SMEs and to facilitate compliance. The development of tools providing practical, easily understandable and accessible data protection guidance is key to reaching a non-expert audience and promoting data protection in practice. In 2023, this guide counted over 16 000 unique visitors and over 40 000 page views.

⁷³ https://www.edpb.europa.eu/sme-data-protection-guide/home_en

The IMI system is essential for the GDPR cooperation among EDPB members. In 2023, this system facilitated more than 4 580 procedures. There were 419 support requests related to the use of IMI. Overall, EDPBSec handled a total of 3 634 support enquiries across all EDPB IT systems.

EDPB HUB, EDPB's primary platform for information sharing with their members, saw significant activity. Over 7 500 different content types were created. This includes, among others, 1 496 new pages, 4 787 documents, 1 014 exchanges. The platform is widely used across various authorities, supporting a substantial user base of over 1 400 members.

The EDPBSec also ensured the continued usability of the EDPB website. The EDPB website was visited 275 582 times in 2023.

In 2023, the EDPBSec organised 360 remote, physical and hybrid meetings. It also processed the translation of 18 EDPB documents in 23 official languages and organised 19 missions for the EDPB Chair.

2.3. EDPS-EDPB Joint opinions

In 2023, EDPB and EDPS adopted two joint opinions:

- Joint Opinion 01/2023 on the proposal for a regulation of the EP and of the Council laying down additional procedural rules relating to the enforcement of regulation (EU) 2016/679, adopted on 19 September 2023. The EC's proposal aims to ensure the timely completion of investigations and the delivery of swift remedies for individuals in cross-border cases, by harmonising a number of procedural differences across the EU and streamlining the cross-border cooperation procedure. The proposal follows a wish list sent by the EDPB to the EC in October 2022.
- Joint Opinion 02/2023 on the proposal for a regulation of the EP and of the Council on the establishment of the digital euro, adopted on 17 October 2023. The EDPB and the EDPS acknowledge that the proposed regulation addresses many data protection aspects of the digital euro, notably by addressing an offline modality to minimise the processing of personal data. In particular, the EDPB and the EDPS strongly welcome that digital euro users will always have the choice to pay in digital euros or in cash. At the same time, the EDPB and the EDPS make several recommendations to better ensure the highest standards of personal data protection and privacy for the future digital euro.

3. Resources management

3.1. Human resources

3.1.1. Development of employees, teams and of the organisation

Equipping **employees** with the appropriate skills to work has a direct impact on the organisation's success. A new Learning & Development (L&D) strategy was adopted in June 2023, replacing the one of 2013. The new strategy sets a comprehensive frame around L&D activities, defines the role of the HRBA, managers and staff members and echoes with the new ways of working and learning. Reflecting this, the EDPS continued in 2023 to organise training for building skills, job-shadowing programmes, coaching, co-development and other initiatives.

In particular, the organisation participated in the new inter-institutional Job Shadowing Programme, a short-term exchange in which an EDPS staff member is paired with another staff member from another EUIBA. This programme aims at increasing respective understanding and awareness of procedures, roles, and tasks done in the EUIs involved and vice-versa. Job shadowing initiatives were carried out inside the EDPS and staff members of the EDPS were able to follow best practices in the European Commission.

Internal coaching⁷⁴ continued during the year of reference with 12 individual sessions for EDPS and EDPB staff. Additionally, the EDPS continued a co-development programme, group coaching in which participants learn from each other and consolidate their professional practices together. Six sessions were carried out in 2023 for Heads of Sector and Heads of Activity as well as for Deputy Heads of Unit.

The EDPS coach accompanied teams during their respective **team building** activities. The support scales from improving their working relationships, defining the mission and identity of the team, up to setting priorities and goals in their work.

In June 2023, the EDPB away day was organised, in which new staff members were welcomed and stock was taken on best practices and areas for improvement. Similarly, in September, the EDPS away day was carried out and articulated around the preparations for the EDPS 20 year celebrations.

Throughout 2023, the management team of the EDPS also benefited from team coaching in the form of a one-year team coaching path co-facilitated with a designer for leadership development at the European School of Administration (EuSA). The team-coaching path was designed so as to end with a seminar in the Jean Monnet house in early January 2024.

Significant **organisational developments** took place in 2023. Already in November 2022, a new function of Head of the EDPS Secretariat at the level of a Secretary-General was introduced. Since 1 July 2023, a Secretary-General was appointed and is supported in this role by an office at Head of sector level. Additionally, the two sectors 'Information & Communications' and the 'Governance & Internal Compliance' were turned into units.

Moreover, on 14 March 2023, the EDPS opened its new office in the EP premises in Strasbourg for a closer cooperation and engagement with policymakers and other EUIBAs present there.

The success of the working time and hybrid working rules, as introduced in May 2022, were confirmed through a pulse survey carried out, in April 2023, ie. after one year in force. Consequently, it was decided that no amendment was necessary to the current decision⁷⁵.

In an effort to further modernise and simplify Human Resources (HR) and administrative processes, the EDPS implemented in Sysper a module for managing career breaks (requests, extension, etc.) and simplified the evaluation report template for reviewing the selection procedure.

In 2023, a rigorous follow-up was carried out on the results of the Staff Satisfaction Survey (SSS) of 2022. A working group was established and presented its results in April 2023 in the form of a comprehensive report listing 59 recommendations. These recommendations were analysed and discussed at senior management level and HRBA coordinated the overview of the measures to be taken by management.

⁷⁴ Coaching focuses on developing strengths, making changes and helping in finding specific solutions to professional challenges

⁷⁵ Minimum two days physical presence at the office per week.

3.1.2. Staff

For responding to data protection challenges such as AI, the EDPS strives to bring together a diverse team of **legal** and **technical experts**, as well as other specialists in their field from all across the EU, working to shape the world of data protection. **Recruitment procedures** for both the EDPS and the EDPB are centrally managed by the HRBA. In addition to recruiting data protection experts, the EDPS hires various other profiles to support the institution in its work faced with an increased workload. Beyond the recruitment of new staff, given the staff turnover, the HRBA manages also short or long-term replacements. For short-term replacements, **interim staff** is hired through the initiation of relevant procurement procedures.

In 2023, 33 selection and recruitment procedures were carried out, 16 for officials, 16 for contract agents and one for a temporary agent. In addition, throughout the year, the HR sector monitored and renewed contracts for contract and temporary agents and external providers.

Ten Blue Book **trainees** are recruited through the traineeship programme, run by the EC, twice a year. Given the rising interest in this programme and the limited number of trainees assigned to the EDPS and the EDPB, a rotation system was established in 2023 allowing all services to benefit from it in regular intervals. The HR sector of the EDPS serves as a contact point for managing the programme internally, offering support to the recruiting units throughout the selection process, is in charge of supervising the allocation and distribution of quotas, for coordinating logistics and for welcoming trainees. For responding to specific needs, during 2023, the EDPS opted for “atypical” trainees. This opportunity was beneficial both for the institution and the trainees.

In the second half of 2023, the HR team piloted a **new on-boarding procedure**, where core units presented briefly their work. The new on-boarding procedure was split in two half-day sessions. The first session included information on EDPS tools staff uses on a daily basis, presentation of Ethics and the works of the units of EDPS and the EDPB. The second session focused on HR matters, L&D, anti-harassment policy awareness, diversity and inclusion, procurement procedures, the use of MIPS+, information security, and data protection. Furthermore, the Staff Committee was presented. If successful, the extension to this procedure will be considered.

Statistics on staff are available under [Annex 1](#).

3.2. Budget

3.2.1. Information on the budget discharge

On 10 May 2023, the EDPS was granted discharge⁷⁶ by the EP for year 2021. The European Court of Auditors (ECA) did not identify any specific issues concerning the EDPS⁷⁷. The Budgetary Authority only formulated some minor observations in its resolution⁷⁸ which the EDPS already addresses.

⁷⁶ Decision 2023/1837 <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32023B1837>

⁷⁷ CoA Annual Report 2021: https://www.eca.europa.eu/lists/ecadocuments/annualreports-2021/annualreports-2021_en.pdf

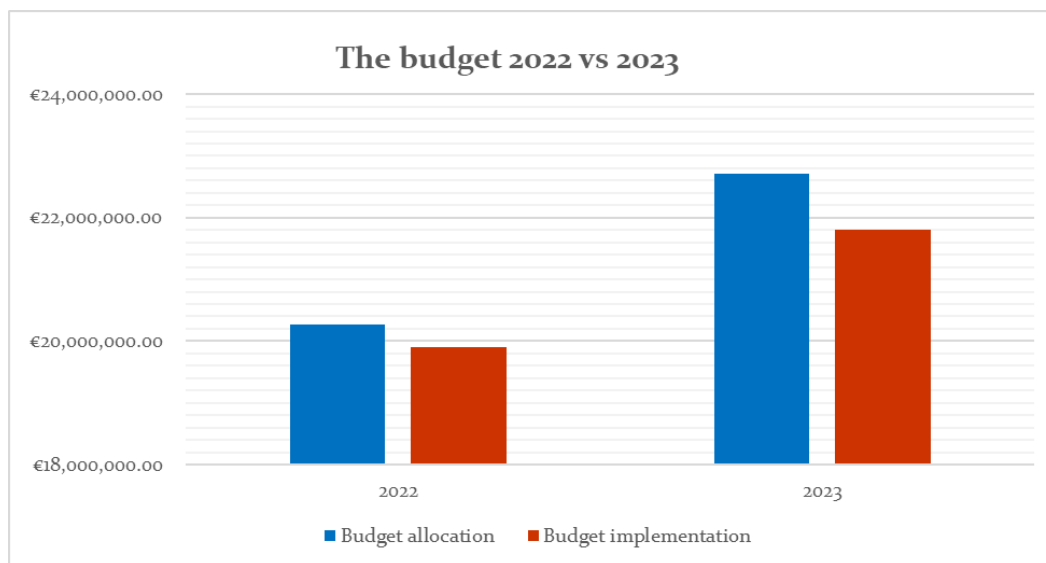
⁷⁸ https://www.europarl.europa.eu/doceo/document/TA-9-2023-0145_EN.html

The discharge process for year 2022 budget is ongoing.

3.2.2. Allocated budget for 2023

The 2023 EDPS operating budget amounted to EUR 22 711 559. Compared to the 2022 final budget, the operating budget increased by 12%. This increase is mainly due to more forecasted expenditures related to Title 1 (staff expenditure) and Title 2 (administrative expenditure).

Other elements impacting the 2023 budget were the consolidation of the EDPBSec (created on 25 May 2018) for which the EDPS was entrusted to provide an independent secretariat, based on GDPR Art. 75(1), and the EDPS strategy 2020-2024 linked to the new mandate.



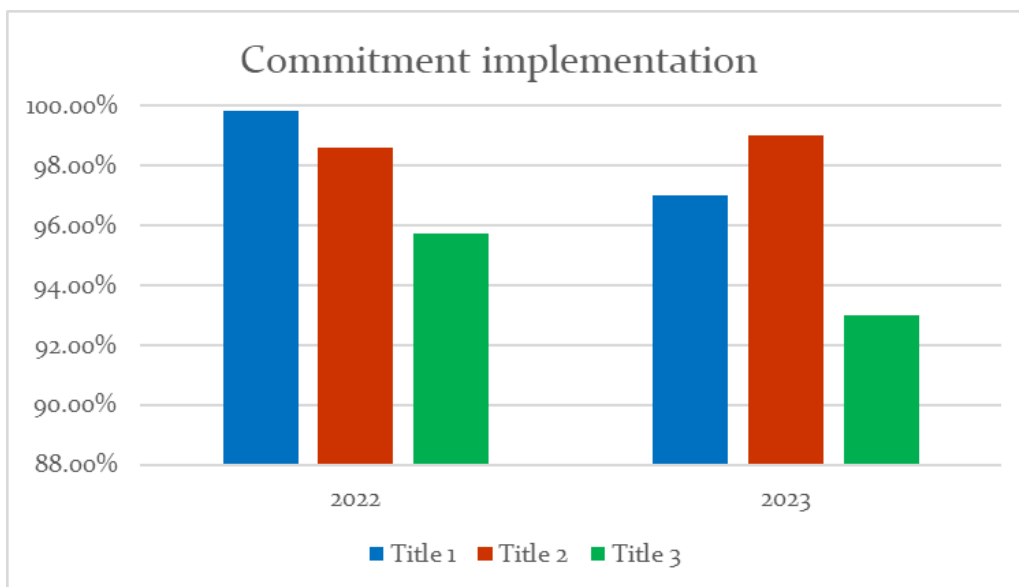
3.2.3. Budget execution

In 2023, implementation rate of the commitment appropriations was 96%. This positive trend was achieved through the accurate monitoring of the budget forecast and sound planning of the EDPS' activities, such as events and conferences.

For Title 1 the implementation of commitment appropriations reached 97% also due to a different forecasted annual inflation parameter and unexpected high costs for living.

For Title 2 the commitment implementation rate reached 99%. The budget line associated to experts' reimbursement, indicates an implementation rate of 79% due to the increase of hybrid meetings in 2023.

For Title 3 the implementation rate reached 93%. There was a reduction of the consumption for the budget allocated to remunerations of officials and the meetings organised by EDPB with the national DPAs and the EDPB Chair expenses.



Detailed figures are available under [Annex 2](#).

3.2.4. Draft budget for 2024

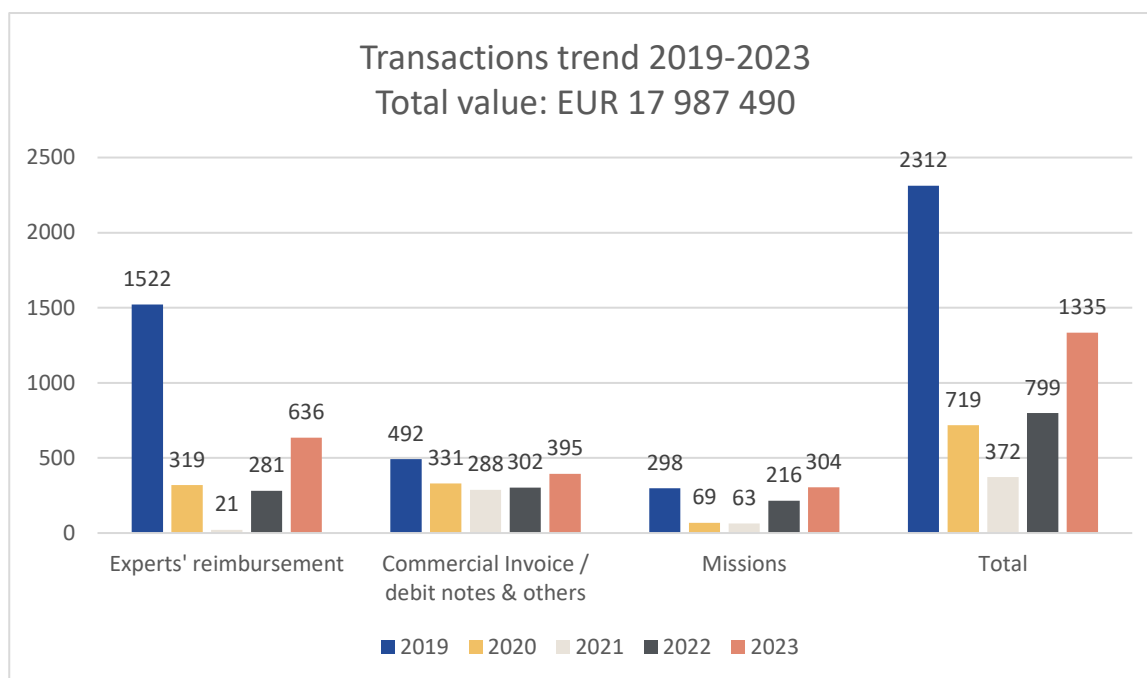
The 2024 budget exercise, although very challenging in view of the annual inflation and unexpected high costs of living, was conducted successfully to meet the EDPS' planned priorities.

As was the case in previous budget exercises, the need to follow a rigorous approach regarding administrative expenditure and staffing of the EUIBAs in general has remained an imperative element in the preparation of the 2024 Draft Budget. In the EDPS' Draft Statement of Estimates for 2024, significant cuts were performed by the EC and the Council, in line with the general savings needs imposed on most of the European Administrations. Consequently, a rethinking of the priorities or even complete cut of some of the initiatives foreseen for 2024 will be necessary. The final approved budget foresees an increase of expenditure of 7.12% compared to 2023.

3.3. Finance

The number of payment transactions (1 335) increased in 2023 compared to 2022 (799) due to a high number of meetings and expert reimbursements. This corresponds to a 67% increase.

However, the number of transactions is still below 2019 statistics, as some activities were impacted by the new way of working (e.g. organisation of virtual or hybrid expert's meetings or participation to virtual events).



For 2023, the average payment mount per transaction is equal to EUR 13 474. Furthermore 97.5% of payments have been processed on time (within 30 days).

As required by art. 74.5 of the Financial Regulation, all operations are subject to ex-ante controls. These controls comprise the initiation and ex-ante verification of an operation and concern both the operational and financial aspects. They are operated by staff with the required skills appointed by the Authorising Officer by Delegation.

The EDPS uses checklists listing the basic controls to be operated by the operational and financial agents involved in the processing of the operations. The use of Speedwell facilitates substantially the aforementioned basic controls applied on payments and commitments.

Missions, expert payments and salaries are initiated by the Paymaster Office of the European Commission (PMO) in application of the SLA concluded between the respective Institutions. These payments are subject to an additional layer of ex-ante controls which are operated by the PMO in addition to the controls applied by the EDPS.

3.3.1. Ex-ante

Since 2020, the EDPS uses a paperless financial workflow, *Speedwell*. It can be seen as an extension of ABAC, allowing the electronic circulation of invoices between all actors involved in a payment process and guides them through the verification. The system has an ECAS access which guarantees the identity of the person giving a visa, including the 'certified correct' visa of the invoice and the 'passed for payment'. The implementation of this electronic workflow ensured the business continuity allowing full adaptation to the new working methods that enhanced teleworking and improved both the efficiency of the processing of financial transactions and the quality of the financial and accounting information.

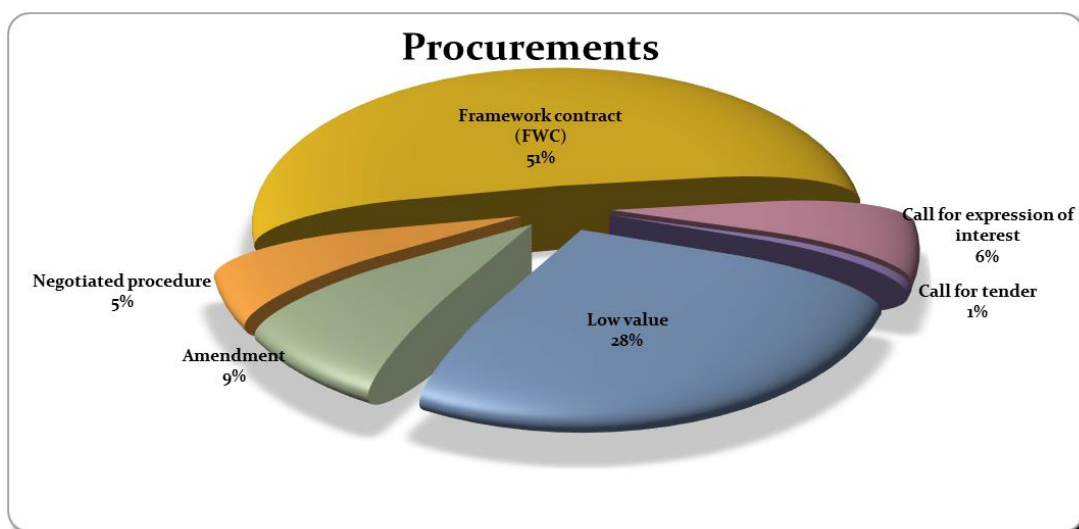
3.4. Procurement and contracting

The EDPS pays particular attention to safeguarding data protection rules as well as EU standards on intellectual property rights. This has required ad-hoc drafting by adapting tender documents, ensuring the fulfilment of data protection requirements related to framework contracts implementation and inserting data protection sheets as annexes to specific contracts.

In 2023, EDPS launched 132 public procurement procedures, taking into account both EDPS' and EDPB's working programmes. Among those, one procedure was conducted for signing a direct service contract and seven referred to negotiated procedures without prior publication (to be reported in line with Art. 74,§10 FR). In addition, in 2023 the EDPS managed (acting for the EDPB), a call for expression of interest aiming to the establishment of a list of individual experts. Eight specific contracts were awarded.

Similarly to last year, this included the need for outsourcing certain activities, such as particular events, conferences, and other projects. In this respect, the HRBA supports both institutions in these procedures, by ensuring, that these are conducted in compliance with the budgetary principles laid down in the Financial Regulation.

More specifically, the EDPS focused on making sure that the external contractors meet the necessary moral and ethical standards expected from all EUIBAs; uphold the highest professional conduct throughout the contract; and respect the environmental, social and human rights defended by the EU. Throughout the entire public procurement procedure, the HRBA prioritises an open, fair, transparent selection and competition process. The aim is to make these procedures more accessible to a wider range of talents, irrespective of a contractor's background. In 2023, the EDPS continued to participate in large inter-institutional framework contracts, to achieve a higher degree of administrative efficiency. The main inter-institutional framework contracts used relate to IT consultancy, audio-video, interim services, office supplies and office furniture. Finally, the EDPS conducted two procedures for framework contracts in the communication and legal representation fields.



3.5. Missions' management

Missions' management at the EDPS is conducted in accordance with the applicable rules of the Commission's Guide to Missions. In addition, the EDPS has a speaking engagement policy, which clarifies the rules in those cases where the mission expenses should be paid by the organiser and is selective as regards attendance to external events.

Missions statistics 2020-2023								
	2020		2021		2022		2023	
	Supervisor	Staff	Supervisor	Staff	Supervisor	Staff	Supervisor	Staff
Nr. of missions	4	39	6	57	21	171	24	246
Average cost EUR	537	578	446	505	1 488	1 035	1 303	998.61
Total cost EUR	2 147	22 547	2 675	28 789	31 267	176 903	31 279	284 580

As regards the Supervisor, missions are conducted in full transparency as provided in their Code of conduct.

Number of missions and cost in 2023	
EDPS Supervisor Wojciech Rafał Wiewiórowski	
Number of missions	24
Cost (EUR)	31 279

Full details on the Supervisor's missions for 2023 can be found in [Annex 3](#).

In May 2023, EDPB elected a new Chair, Ms Anu Talus who performed nine missions since, and her predecessor Ms Andrea Jelinek four.

Number of missions and cost in 2023		
EDPS Chair		
Chair name	Number of missions	Cost (EUR)
Andrea Jelinek	4	14 038

Anu Talus	9	8 994
-----------	---	-------

The EDPS has joined - since November 2022 - a PMO project for missions' management in shared mode. Since then, EDPS staff going on mission can directly benefit from services offered by PMO's mission experts, notably when it comes to declarations of mission expenses and related reimbursements. The PMO verifies the declaration of expenses against financial rules and on missions. As a first line mission support and for the validation of mission requests, the EDPS maintains an in-house helpdesk in the HRBA unit.

3.6. IT infrastructure and tools

IT infrastructure is assured at the EDPS through basic **IT services provided from the European Parliament's** DG ITEC (network connectivity, corporate workstations and environment, email and office productivity tools) and administrative applications from the European Commission's DG DIGIT (Sysper, Ares since 2023, ABAC). The EDPS IT is the single point of contact between the EDPS and these service providers, as well as with other EUIBAs and external service providers for IT matters. The EDPS Digital Transformation Sector manages the relationship with these service providers, ensuring good communication and striving to keep interoperability between all the services provided.

The EDPS runs **own services** as well. The EDPS Public Key Infrastructure (PKI) is the platform for managing the certificates created for authenticating in the EDPS Case Management System (CMS). The software used to manage this PKI is called EJBCA. During 2023, EDPS planned and successfully tested the re-deployment of this software using a new version and modern technology that allows for easier backup, recovery and re-deployment of the service.

In addition, for shifting towards digitalisation, during 2023, the organisation procured and installed qualified digital signatures from a trusted **e-IDAS** provider. These digital signatures fill a gap that had been previously identified and provide the highest level of integrity, authentication and non-repudiation to the documents in digital format signed by the EDPS. A pilot collaborative platform⁷⁹ **Nextcloud** for drafting documents with multiple authors at the same time was also launched. This platform also provides a video conferencing system based on free software.

In 2019 the EDPS published the first version of the **Website Evidence Collector** (WEC), based on open source software and published under the EU Public License. It helps website owners, designers and operators (data controllers and processors) as well as data protection authorities to detect the processing operations of their website on their users' browsers. After last year's 2.0 release, the EDPS has now published version 2.1. Amongst a number of bug fixes, the software has received a few more features⁸⁰.

The EDPS developed the **AI deep fake tool** for its conference exhibitions to illustrate the potential of deep fake image generation and address the data protection implications. The EDPS continued with the pilot phase of two social media platforms that are part of decentralised, free and open-source

⁷⁹ The package the EDPS negotiated for "Nextcloud with optional Collabora Office" was included in the list of group S (SaaS) negotiated packages under the SIDE II Framework Contract, so that other EUIBAs could easily procure Nextcloud hosted services.

⁸⁰ 1. Generation of output in PDF format and a still experimental output in DOCX/ODT format, 2. Improvements to the HTML output with jump marks, 3. The possibility to combine multiple scans or to add custom data for the generation of output with custom templates. The tool is available for installation on Linux, Mac, and Windows, but requires system administrator experience for the installation.

social media networks that connect users in a privacy-oriented environment, based on Mastodon and PeerTube software.

The EDPS **Case Management System** (CMS) has been in operation since October 2013. It has been developed by an IT service supplier selected with EP assistance and customised to the specific business needs of the EDPS, including strong data protection and security safeguards. The EDPS liaises with both the external IT service provider and with the EP for getting support for the management of the system. Since 2015, the relevant services are procured under the inter-institutional SIDE Framework Contract. Service provider's documentation and audit results on IT security controls, as well as documentation on data protection measures are assessed on a yearly basis by the EDPS.

The EU Send service is a platform developed by the EC that allows secure electronic exchange of documents and data between Public Administrations, EU institutions and businesses. The EDPS has access, as receiving party only, to the platform since 2016 (former name eTust-EX), and receives through it relevant documents from the EC. During Q4 2023, EDPS on-boarded in the acceptance environment of **EU Send Web**, for analysing it and determining the feasibility of using it at the EDPS, as a secure channel to exchange sensitive non-classified information with other EUIBAs.

SECABC, a project developed by the EC, is a framework for facilitating the exchange of address books among EUIBAs, including the certificate's public keys. The goal of this project is to overcome the interoperability problems associated to using email certificates for secure exchange of encrypted messages among EUIBAs. The EDPS on-boarded SECABC project during Q3 2023 and it is now in production.

Finally, in Q4 2023, ARES was rolled out in the EDPS, to support administrative activities. ARES is a document management application provided by the EC to a growing number of EUIBAs. Staff training was carried out as of end of Q3/Q4 2023 and it is scheduled to have ARES in full use within 2024.

3.7. Local Security and Local Information Security

Local Security and Local information security require actions in the context of (a) information security, (b) cybersecurity, (c) business continuity and staff safety, and (d) management of EU classified information. During 2023, in these areas, the **Business Continuity Plan** of the organisation was revamped, **Restricted lapTOPs** (RTOP) were introduced for EDPS staff handling EU Classified Information (EUCI) and a process was established for the RTOP attribution for the needs of the EDPS supervisory functions. Two new security alert systems entered into use, the **EUWARN** and **EP-CRISIS** for staff to receive security notifications and an impact assessment of the new **Cybersecurity Regulation** for EUIBAs was performed covering two perspectives: the compliance and EDPS being a member of the Interinstitutional Cybersecurity Board (IICB).

In the framework of keeping up-to-date **information security** policies, the EUCI rules were updated to incorporate the use of accredited solutions and to harmonize with best practices of other EUIBAs. The *acceptable use policy* and the *information security policy* were also updated to reflect new risks and technological developments.

As far as it concerns handling **security incidents**, in 2023 the EDPS managed and resolved successfully serious incidents impacting the safety and cybersecurity of EDPS staff and systems, and provided the required guidance for minimizing risks. Follow-up actions included the development of further guidance and future actions for improving the security posture of EDPS.

4. Internal control

4.1. Control results

4.1.1. Effectiveness

4.1.1.1. Legality and regularity of transactions

The EDPS uses internal control processes to ensure sound management of risks relating to the legality and regularity of the underlying transactions it is responsible for.

The control objective is to ensure that the EDPS has reasonable assurance that the total amount of any financial operation authorised during the reporting year, which would not be in conformity with the applicable contractual or regulatory provisions, does not exceed 2 % of the authorised payments concerned, a threshold used also by the ECA. To reach this conclusion, the EDPS reviewed the results of the key controls in place (as described below). For each item, materiality is assessed in accordance with the materiality criteria as adopted by the ECA.

- Objectives of materiality criteria:

The materiality threshold gives the authorising officer by delegation (AOD) a basis on which to establish the significant weaknesses that require a formal reservation to his statement. The assessment of a weakness falls to the qualitative and quantitative judgment of the AOD, who remains responsible for the statement of assurance, including the reservations made.

Qualitative and quantitative criteria for determining the level of materiality:

a) Qualitative criteria

The following parameters were used to establish significant weaknesses:

- significant/repeated errors without mitigation;
- weakness in the internal control system;
- insufficient supporting documents;
- material problems identified by the ECA and/or the IAS;
- problems of reputation;

b) Quantitative criteria

Once a significant weakness has been identified, quantitative criteria must be applied to determine the level of materiality. This level will be used to determine whether the weakness 'merits' being reported.

- margin of error
- maximum amount of risk.

Should the residual risk of an error be higher, the institution must explain the reasons for it. The EDPS materiality threshold (2% of annual appropriations) is: EUR 454 231 (2% of the 2023 budget after transfers)

4.1.1.2. Ethics

The EDPS policy with regard to professional ethics aims to safeguard the general framework of rights and obligations enshrined in the Staff Regulations and to promote excellence in the European civil service. To guide questions related to professional ethics and staff conduct, the EDPS adopted its own ethics framework, last updated end of 2019 and composed of a specific **Code of conduct** for the Supervisor as well as a separate Code of conduct applicable to all staff of the EDPS and the EDPB. These Codes of conduct are complemented by a set of decisions on **whistleblowing, anti-harassment, disciplinary proceedings** and **administrative investigations**. The appointment of an Ethics officer to the EDPS ensures the compliance with the provisions included in the framework.

During their induction training, all EDPS and EDPB newcomers attend a mandatory presentation on the ethics framework as well as a separate session dedicated to the new anti-harassment decision adopted in 2020. For 2023, two induction trainings were organised for 19 newcomers.

In line with the specific Code of conduct for the Supervisor, the latter completed and published his annual declaration of interest for 2023⁸¹. During 2023, the EDPS Ethics officer advised staff on ethical matters and received 21 formal requests (against 25 in 2022) related to the Code of Conduct for staff, mainly linked to the authorisation of external activities (in particular lectures, presentations and patronage) and publications. An e-workflow for ethics requests was added to Sysper, following the Commission's ethics module.

During 2023, no cases of ethical misconduct or whistleblowing were reported at the EDPS. Five European Ombudsman cases⁸² were opened during the year of reference. Four of them related to EDPS complaint cases and one to an Access to Documents case. Of the five inquiries, four are closed and one is still ongoing (complaint case related). The EDPS was not involved in any OLAF investigation. This can be seen as a very positive indicator for an ethically healthy organisation.

4.1.1.3. Deviations' reporting

All deviations are signed by the authoring officer in charge. In 2023, 12 events were recorded: 11 derogations⁸³ and one exception⁸⁴. No prior approvals or non-compliance event was recorded. Compared to 2022 (17 events), the overall number of deviations decreased.

4.1.1.4. Accounting controls

The accounting officer of the EDPS is the one of the EC. Inter-institutional cooperation presents many advantages from the perspective of good financial management and budget consolidation. This cooperation is vital for the EDPS, not only because of the small size of the organisation and lack of resources, but also because it increases efficiency and allows for economies of scale. Moreover, most

⁸¹ https://edps.europa.eu/system/files/2023-01/declaration_of_interests_2023_en.pdf

⁸² 1. CASE 768/2023/TM, 2. CASE 1818/2023/JN, 3. CASE 2100/2023/KRW, 4. CASE 2146/2023/TM, 5. CASE 1888/2023/TM (ongoing)

⁸³ Derogations are explicit situations allowed or foreseen in the processes and procedures under specific circumstances.

⁸⁴ Exceptions are deviations which are not initially foreseen by the procedures and therefore require individual follow-up. They may take a form of the management's overriding of prescribed processes or procedures, allowing for actions that go against the results of previous controls. If such control-overrides or deviations are approved before action is taken (ex-ante), they are called 'exceptions'.

of the expenditure remains within the EU administrations, therefore resulting in appreciable savings for the EU budget. This cooperation is reflected through Service Level Agreements (SLA).

Adequate procedures and controls are in place to ensure that accounting data and related information used for preparing the organisation's annual accounts and financial reports are accurate, complete and timely presented.

4.1.1.5. Ex-post

According to Art. 74.6 of the Financial Regulation, the Authorising Officer can organise, in addition to the mandatory ex-ante controls, also ex-post controls on sample basis depending on risks related to the transactions. Following an ECA observation (see section on [ECA](#)) and due to the fact that the organisation grew over the years with an increasing budget and number of financial transactions, the EDPS Secretary-General, decided to carry out again these controls, as from 2022.

For 2023, the ex-post controls were carried out following a risk assessment which resulted in selecting six negotiated procedures. Six payments linked to these procedures were included in the sample. The total value of the sampled transactions was EUR 134 839,49 which represents the 78,2% of the total value of negotiated procedures and 2,1% of the total monetary value of the yearly payments.

As far as it concerns the legality and regularity of transactions and financial and accounting information no error was detected in the sample. As far as it concerns procurement rules, principles and guidelines, some weaknesses were detected without leading to financial loss. The weaknesses concerned the choice of procedure selected, the establishment of minimum documentation in application of procurement rules and guidelines, the quality of information included in the documentation produced for maintaining audit trail and absence of follow-up actions. The EDPS has already mitigated the first weakness detected, through the establishment of a framework contract.

Since the selected methodology for running the exercise was risk-based, the sample cannot be considered representative and therefore the results cannot be extrapolated to all payments.

4.1.2. Efficiency

During 2023, 97.5% of payments were processed on time (within 30 days). In addition, 96% of the budget was executed against a target of 90%, as set in the KPI nr. 9. For carrying out a cost-benefit analysis, the EDPS, being a small Institution, takes as a base the model applied by EPSO, since this office, as the EDPS, only manages administrative appropriations under Heading V of the EU budget. This model consists of a single global indicator which is calculated by dividing the approximate total cost of control by all expenditure made during the year (budget implementation in terms of payments).

The total number of FTEs involved in the main control activities (internal control, procurement and finance) is estimated at around eight FTEs.

The estimated average cost (all categories of cost included) of the control activities for 2023 would be EUR 852 514.

The total budget implementation in terms of payments for 2023 is EUR 20 708 161. This means that the cost of the control activities represents 4.12% of the EDPS expenditure.

Consequently, based on an assessment of the most relevant key indicators and control results, the EDPS has assessed the efficiency of the control system and reached a positive conclusion.

4.2. Audit observations

During 2023, one IAS audit was carried out and the ECA Statement of Assurance for year 2022 was completed. Overall, in 2023 the IAS issued one very important and one important recommendation, closed one important recommendation, and ECA closed all its prior observations except one. Details follow in dedicated sections below.

4.2.1. Internal Audit Service

In July 2023, the IAS completed the follow-up audit on one open important recommendation on IT security governance, stemming from the audit on the supervision of the processing of personal data by Europol by the EDPS. The IAS concluded that this action was adequately and efficiently implemented. Consequently, all recommendations under this audit were closed.

According to the 2022-2024 Strategic Internal Audit Plan (SIAP) two audit topics had been identified: a) the risk assessment methodology for the planning of the EDPS audits and b) governance arrangements for IT services provided by the EP to the EDPS. In 2023, an audit was carried out on the first topic, under the title 'the methodology for the planning of EDPS audits in the EDPS'. The audit was concluded in October 2023, issuing two recommendations, **one very important** and one important as detailed below:

Recommendation	Risk rate	Implementation deadline
1. Design of the methodology to establish the EDPS audit plan	Very important	30/04/2025
2. Implementation of the EDPS audit plan	Important	31/12/2024

The IAS concluded that the methodology used to establish the audit plan is not clear and/or up to date as regards as roles and responsibilities of the actors involved. The planning process does not currently involve the clear identification of the audit universe, which is the starting point for a structured risk assessment. Furthermore, the methodology does not encompass a risk-based method to prioritise audits (including setting up an audit frequency, when relevant) based on an objective assessment of the likelihood and severity of risks. Finally, there is not an adequate process in place for estimating the human resources needed to implement the audit plan and neither a long-term audit strategy.

The EDPS mitigating actions involve the update of the case manual on audits for clarifying roles and responsibilities and the strengthening of the risk-based approach through the regular review of comprehensive lists of EUIBAs registers of processing activities and the use of business intelligence tools and surveys. In addition, the assessment of the likelihood and severity of risks will be defined using the EDPS DPIA list combined with other sources of information, eg. volume of processing activities etc. Depending on the priorities to be set by the new Supervisor (as of end of 2024) the EDPS will complement the audit long-term strategic perspective.

Concerning the implementation of the EDPS audit plan, the review of the case manual on audits and the use of project management tools should strengthen the monitoring of this process. The EDPS action plan was approved by the IAS.

For 2024, the IAS will conduct an audit on the governance arrangements for IT services provided by the EP to the EDPS. Results are expected during Q1 2025.

4.2.2. European Court of Auditors

On 5 October 2023 the ECA published its Annual Report for 2022⁸⁵. The EDPS is quoted under Chapter nine 'European public administration'. Within a sample of 60 transactions - including other institutions⁸⁶ as well (one for EDPS) - no errors were detected for the EDPS and therefore the ECA made no particular reference to the EDPS.

By July 2023 the conclusions on the 2022 annual activity report, the related information concerning supervisory and control systems and the 2022 provisional and final annual accounts of the EDPS were communicated to the organisation. The ECA examined one financial transaction concerning a mission which did not give rise to any observation. The ECA closed all observations that had been formulated in 2019⁸⁷ except one on ex-post controls.

The ECA welcomed the reintroduction of the ex-post control on the 2022 transactions and drew attention to the sampling methodology and the extrapolation of potential financial error to the examined population. The EDPS took this comment into serious consideration and carried out the 2023 ex-post controls through a risk assessment. See details [here](#).

The Statement of Assurance for year 2023 was initiated in September 2023. The ECA audited one transaction concerning the file of a staff member. The audit is ongoing.

4.3. Annual planning and risk management

The objectives are defined in the Strategy and reflected in the **Annual Management Plan (MP)** in the form of concrete actions and deliverables throughout the coming year. The MP plan translates the long-term strategy of the EDPS into general and specific objectives. Three times per year, a review is carried out for monitoring the progress in meeting the targets as set in the MP. The work instruction on 'Strategic planning and programming cycle', mapping and giving concrete structure to the process - including the MP process - has been in the making since 2022 but put on hold due to changes in the Annual Activity Report process. This work instruction is planned to be crystallised during Q2 2024.

The MP also includes key performance indicators (KPIs), defined in the Strategy 2020-2024, which are regularly measured for monitoring the progress achieved during the implementation phase. See here [KPIs](#) for 2023 were all KPIs, except the one on social media (KPI7), met or surpassed targets.

The **risk management** in the EDPS was revised. The revised framework run as a pilot at the end of 2022 for carrying out the 2023 risk assessment exercise. Novelties of the revised framework included

⁸⁵ 2022 Annual Report of the European Court of Auditors, 5 October 2023: https://www.eca.europa.eu/ECAPublications/AR-2022/AR-2022_EN.pdf

⁸⁶ European Parliament, European External Action Service, Council of the European Union, the Court of Justice of the European Union, the European Economic and Social Committee, the European Committee of the Regions and the European Ombudsman

⁸⁷ Weaknesses identified: 1. Establishment of an Audit Progress Committee, 3. Lack of an update of the decision on the Internal Control Standard (ICS no.16), 4. Weaknesses in the policy on identification of sensitive functions, 5. Absence of timely monitoring of ABAC rights, 6. Weaknesses in the formalisation of the financial workflows and designation of financial actors, 7. Weaknesses in the register of exceptions.

the Secretary-General launching the exercise instead of the ICC for setting the ‘tone at the top’, linking the exercise with the preparation of the management plan for embedding risk-thinking in the planning of activities phase, meeting between senior and middle managers for discussing and concluding on the identified risks, drafting an analysis report, introducing a structured follow-up for those risks defined by management as very important to be followed-up, introducing a risk inventory serving as a database for tracking and monitoring all risks from at least the most recent exercises and so on.

Following the pilot implementation, an anonymous satisfaction survey was carried out in May 2023 for measuring the efficiency of the exercise and collecting any further suggestions. The overall results of the survey were very positive and consequently, the new framework was formally adopted on the 26 June 2023.

As far as it concerns the 2024 exercise, this was concluded by formulating 25 risks out of which none was ranked ‘critical’ (against 24 risks identified in the 2022 exercise). Out of the 25 risks, two had the highest score (20 points) one of EDPS and the strong dependency of EDPS IT systems by other services and one of EDPB on its difficulty to face increasing number of litigation cases.

4.4. Internal control annual assessment

Based on the EDPS decision of 06 October 2020 on the adoption of the Internal Control Standards (ICS), their assessment is done through examination of 14 standards, grouped up in six building blocks:

I. Mission and values

II. Human Resources

III. Planning and Risk Management Processes

IV. Operations and Control Activities

V. Information and Financial Reporting

VI. Evaluation and Audit

The 2023 ICS assessment concluded that the overall level of internal control is satisfactory. All six building blocks are present and functioning. The effectiveness of building blocks II, IV and VI could be improved. More precisely, the effectiveness of ICS 3 (Staff allocation and mobility), 4 (staff evaluation and development), 7 (operational structures), 8 (processes and procedures), 11 (document management) and 14 (assessment of IC systems) could be enhanced.

Following the results of the 2022 staff satisfaction survey, a working group was established for analysing and proposing actions for improvement actions. Management examined the actions proposed and decisions have already been taken towards implementing most of them (especially under building block II). Ultimately, these actions together with a close monitoring of the areas where there is space for improvement, will enhance the effectiveness of the internal control in the organisation.

4.5. Conclusions on the assurance

This section reviews the assessment of the elements reported above (in Sections 4.1-4.4), and the sub-conclusions already reached. It draws an overall conclusion to support the declaration of assurance and whether it should be qualified with reservations.

The assessment of the elements and the conclusions reported in these sections result from a systematic analysis of the evidence available. The following elements provide sufficient guarantees as to the completeness and reliability of the information reported and results in a comprehensive coverage of the budget delegated to the Secretary-General of the EDPS:

- the EDPS has put in place suitable ethic mechanisms to limit risks of error and prevent, detect and correct fraud and irregularities,
- the EDPS's internal controls systems provide sufficient assurance to adequately manage the risks relating to the legality and regularity of the underlying transactions,
- the EDPS implemented appropriate ex-ante and ex-post controls, to the extent that they remain cost-effective,
- recommendations issued by the EDPS's auditing bodies do not raise any assurance implications and are being implemented as part of the ongoing continuous efforts in terms of further improvements,
- the EDPS's internal control system allows for proper planning of activities, detecting areas for improvement and ensures through appropriate mechanisms an efficient follow-up and correction where appropriate with regards to the achievement of the internal control objectives,
- resources were used for the intended purposes and non-omission of significant information was ensured.

In conclusion, based on the elements reported above, management has reasonable assurance that, overall, suitable controls are in place and working as intended; risks are being appropriately identified, monitored and mitigated and necessary improvements and reinforcements are being implemented. The EDPS Secretary-General, in his capacity as authorising officer by delegation has signed the declaration of assurance.

5. Declaration of assurance

I, the undersigned, Leonardo CERVERA NAVAS, EDPS Secretary-General, in my capacity as authorising officer by delegation

Declare that the information contained in this report gives a true and fair view.

State that, I have had reasonable assurance that the resources allocated to the activities described in this report have been used for the intended purpose and in accordance with the principles of sound financial management, and that the control procedures put in place give the necessary guarantees concerning the legality and regularity of the underlying operations.

This reasonable assurance is based on my own judgment and on the information available to me, such as the results of the self-evaluation, ex-post controls and the report of the Internal Audit Service.

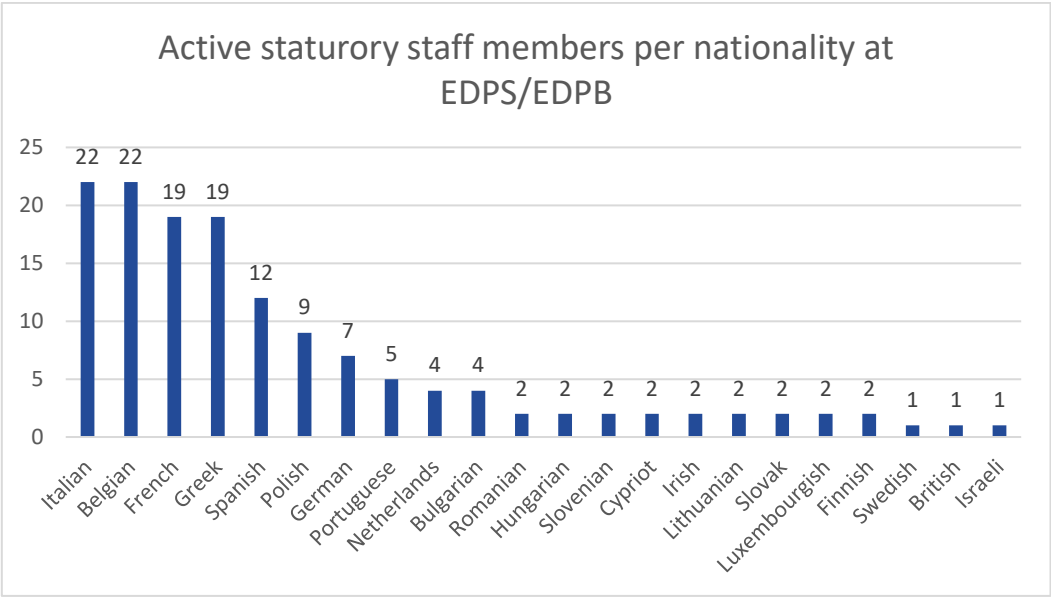
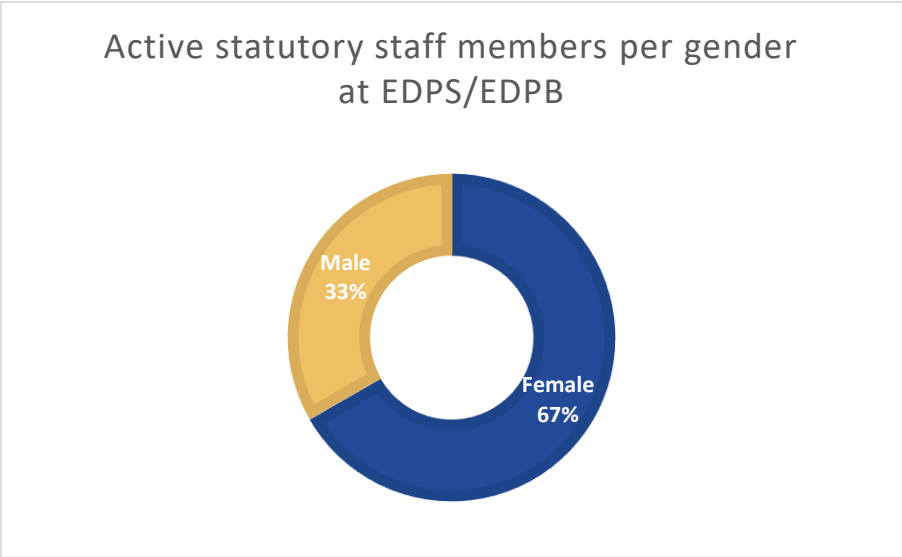
Confirm that I am not aware of any matter not reported here which could harm the interests of the institution.

e-signed

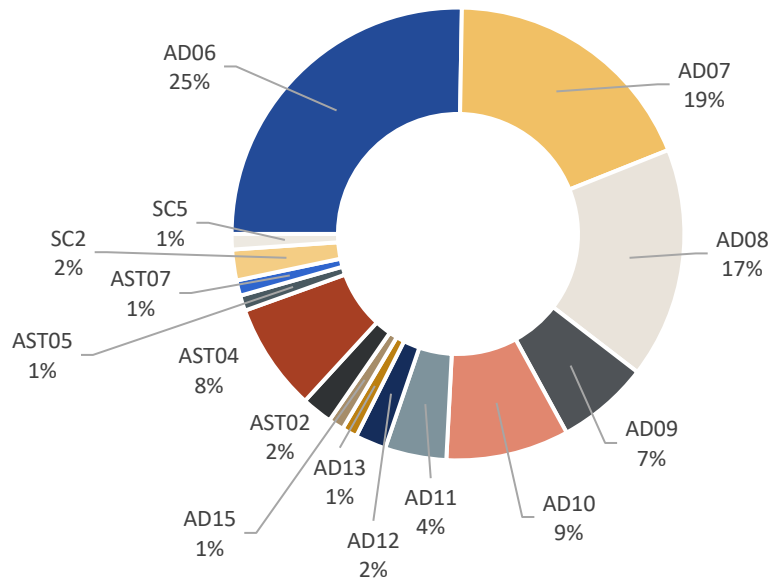
in Brussels

6. Annexes

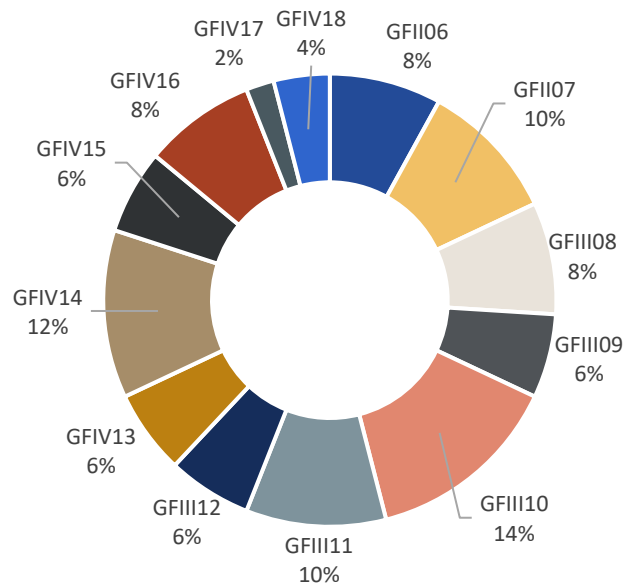
6.1. Human resources at the EDPS



Officials and Temporary Agents



Contract Agents per grade



6.2. Budget in 2023

TITLE 1 - EXPENDITURE RELATING TO PERSONS WORKING WITH THE INSTITUTION		2022 (after transfers)	Execution 2022	2023 (after transfers)	2023 vs 2022	2023 vs 2022 (%)	execution 2023 (%)
Chapter 10	Members of the institution						
Article 100	Remuneration, allowances and other entitlements of Members						
	Item 1000 Remuneration and allowances	395.000,00	97,86%	404.065,66	9.065,66	2,30%	100,00%
	Item 1001 Entitlements on entering and leaving the service	0,00		0,00	0,00		
	Item 1002 Temporary allowances	0,00		0,00	0,00		
	Item 1003 Pensions	0,00		0,00	0,00		
	Item 1004 Provisional appropriation	0,00		0,00	0,00		
	TOTAL Article 100	395.000,00	97,86%	404.065,66	9.065,66	2,30%	100,00%
Article 101	Other expenditure in connection with Members						
	Item 1010 Further training	0,00	0,00%	2.012,75	2.012,75	0,00%	100,00%
	Item 1011 Mission expenses, travel expenses and other ancillary expenditure	33.000,00	100,00%	33.921,59	921,59	2,79%	100,00%
	TOTAL Article 101	33.000,00	100,00%	35.934,34	2.934,34	8,89%	100,00%
	TOTAL Chapter 10	428.000,00	98,03%	440.000,00	12.000,00	2,80%	100,00%
Chapter 11	Staff of the institution						
Article 110	Remuneration, allowances and other entitlements of officials and temporary staff						
	Item 1100 Remuneration and allowances	6.534.000,00	99,98%	7.724.420,00	1.190.420,00	18,22%	99,36%
	Item 1101 Entitlements on entering, leaving the service and on transfer	49.000,00	98,29%	80.000,00	31.000,00	63,27%	0,71%
	Item 1102 Overtime	0,00		0,00	0,00		
	Item 1103 Special assistance grants	0,00		0,00	0,00		
	Item 1104 Allowances and miscellaneous contributions in connection with early termination of service	0,00		0,00	0,00		
	Item 1105 Provisional appropriation	0,00		0,00	0,00		
	TOTAL Article 110	6.583.000,00	99,96%	7.804.420,00	1.221.420,00	18,55%	98,35%
Article 111	Other staff						
	Item 1110 Contract staff	2.081.228,02	100,00%	2.020.500,00	-60.728,02	-2,92%	96,32%
	Item 1111 Cost of traineeships and staff exchanges	160.971,98	98,86%	325.000,00	164.028,02	101,90%	59,96%
	Item 1112 Services and work to be contracted out	33.800,00	100,00%	57.000,00	23.200,00	68,64%	66,67%
	TOTAL Article 111	2.276.000,00	99,92%	2.402.500,00	126.500,00	5,56%	90,70%

Article 112	Other expenditure in connection with staff					
Item 1120 Mission expenses, travel expenses and other ancillary expenditure	145.000,00	100,00%	195.000,00	50.000,00	34,48%	100,00%
Item 1121 Recruitment costs	11.000,00	100,00%	5.000,00	-6.000,00	-54,55%	100,00%
Item 1122 Further training	60.000,00	100,00%	40.091,11	-19.908,89	-33,18%	73,30%
Item 1123 Social service	0,00		0,00	0,00		0,00%
Item 1124 Medical service	23.000,00	100,00%	13.000,00	-10.000,00	-43,48%	100,00%
Item 1125 Union nursery centre and other day nurseries and after-school centres	99.893,35	100,00%	66.581,00	-33.312,35	-33,35%	100,00%
Item 1126 Relations between staff and other welfare expenditure	6.106,65	72,93%	72.327,89	66.221,24	1084,41%	100,00%
TOTAL Article 112	345.000,00	99,52%	392.000,00	47.000,00	13,62%	97,27%
TOTAL Chapter 11	9.204.000,00	99,94%	10.598.920,00	1.394.920,00	15,16%	96,57%
TOTAL TITLE 1	9.632.000,00	99,85%	11.038.920,00	1.406.920,00	14,61%	96,71%

TITLE 2 - BUILDINGS, EQUIPMENT AND EXPENDITURE IN CONNECTION WITH THE OPERATION OF THE INSTITUTION		2022 (after transfers)	Execution 2022	2023 (after transfers)	2023 vs 2022	2023 vs 2022 (%)	execution 2023 (%)
Chapter 20							
Buildings, equipment and expenditure in connection with the operation of the institution							
Article 200	Rents, charges and buildings expenditure	1.610.000,00	98,57%	1.731.857,00	121.857,00	7,57%	100,00%
TOTAL Article 200		1.610.000,00	98,57%	1.731.857,00	121.857,00	7,57%	100,00%
Article 201	Expenditure in connection with the operation and activities of the institution						
	Item 2010 Information technology equipment and services	852.000,00	98,52%	820.000,00	-32.000,00	-3,76%	99,21%
	Item 2011 Furnitures, office supplies and telecommunication costs	19.000,00	100,00%	12.000,00	-7.000,00	-36,84%	100,00%
	Item 2012 Other operating expenditure	231.000,00	95,18%	235.000,00	4.000,00	1,73%	98,40%
	Item 2013 Translation and interpretation costs	510.000,00	100,00%	551.000,00	41.000,00	8,04%	100,00%
	Item 2014 Expenditure on publishing and information	174.000,00	95,84%	186.000,00	12.000,00	6,90%	98,42%
	Item 2015 Expenditure in connection with the activities of the institution	366.000,00	95,84%	146.000,00	-220.000,00	-60,11%	96,81%
	Item 2016 Experts reimbursements	60.000,00	88,63%	25.000,00	-35.000,00	-58,33%	78,88%
TOTAL Article 201		2.212.000,00	97,60%	1.975.000,00	-237.000,00	-10,71%	98,73%
TOTAL CHAPTER 20		3.822.000,00	98,61%	3.706.857,00	-115.143,00	-3,01%	99,38%
TOTAL TITLE 2		3.822.000,00	98,61%	3.706.857,00	-115.143,00	-3,01%	99,38%

TITLE 3 - EUROPEAN DATA PROTECTION BOARD (EDPB)		2022 (after transfers)	Execution 2022	2023 (after transfers)	2023 vs 2022	2023 vs 2022 (%)	execution 2023 (%)
Article 300 Rents, charges and buildings expenditure							
Item 3000 Rents, charges and buildings expenditure		633.000,00	100,00%	692.768,85	59.768,85		100,00%
TOTAL Article 300		633.000,00	100,00%	692.768,85	59.768,85		100,00%
Article 301 Remuneration, allowances and other entitlements of officials and temporary staff							
Item 3010 Remuneration and allowances		1.479.000,00	93,91%	2.236.013,15	757.013,15	51,18%	82,50%
Item 3011 Entitlements on entering, leaving the service and on transfer		26.000,00	84,94%	26.000,00	0,00	0,00%	28,94%
Item 3012 Allowances and miscellaneous contributions in connection with early termination of service							
TOTAL Article 301		1.505.000,00	93,76%	2.262.013,15	757.013,15	50,30%	81,89%
Article 302 Other staff							
Item 3020 Contract staff		1.489.000,00	99,00%	1.553.000,00	64.000,00	4,30%	99,71%
Item 3021 Cost of traineeships and staff exchanges		41.000,00	74,21%	35.000,00	-6.000,00	-14,63%	92,70%
Item 3022 Services and work to be contracted out			0,00%	100.000,00	100.000,00	0,00%	81,79%
TOTAL Article 302		1.530.000,00	98,34%	1.688.000,00	158.000,00	10,33%	98,50%
Article 303 Other expenditure in connection with staff of the Board							
Item 3030 Mission expenses, travel expenses and other ancillary expenditure		43.000,00	100,00%	49.500,00	6.500,00	15,12%	100,00%
Item 3031 Recruitment costs		4.929,00	100,00%	3.000,00	-1.929,00	-39,14%	66,67%
Item 3032 Further training		19.135,00	100,00%	24.000,00	4.865,00	25,42%	77,09%
Item 3033 Medical service		10.000,00	100,00%	5.000,00	-5.000,00	-50,00%	100,00%
Item 3034 Union nursery centre and other day nurseries and after-school centres		48.936,00	100,00%	18.500,00	-30.436,00	-62,20%	100,00%
TOTAL Article 303		126.000,00	100,00%	100.000,00	-26.000,00	-20,63%	93,50%
Article 304 Expenditure in connection with the operation and activities of the Board							
Item 3040 EDPB plenaries and sub-group meetings		145.000,00	87,67%	332.000,00	187.000,00	128,97%	78,53%
Item 3041 Translation and interpretation costs		1.107.000,00	90,50%	839.000,00	-268.000,00	-24,21%	99,27%
Item 3042 Expenditure on publishing and information		133.000,00	92,83%	110.000,00	-23.000,00	-17,29%	89,60%
Item 3043 Information technology equipment and services		1.106.000,00	94,69%	935.000,00	-171.000,00	-15,46%	99,62%
Item 3044 Furnitures, office supplies and telecommunication costs		10.000,00	100,00%	7.000,00	-3.000,00	-30,00%	44,04%
Item 3045 External consultancy and studies		252.000,00	97,87%	660.000,00	408.000,00	161,90%	97,63%
Item 3046 Other expenditure in connection with the activities of the EDPB		136.000,00	90,66%	180.000,00	44.000,00	32,35%	91,11%
Item 3047 Other operating expenditure		84.000,00	99,99%	110.000,00	26.000,00		100,00%
Item 3048 EDPB Chair and Vice chairs expenses		45.000,00	66,66%	50.000,00	5.000,00		95,10%
TOTAL Article 304		3.018.000,00	92,56%	3.223.000,00	205.000,00	6,79%	95,95%
TOTAL CHAPTER 30		6.812.000,00	95,73%	7.965.782,00	1.153.782,00	16,94%	92,82%
TOTAL TITLE 3		6.812.000,00	95,73%	7.965.782,00	1.153.782,00	16,94%	92,82%
TOTAL BUDGET		20.266.000,00	98,23%	22.711.559,00	2.445.559,00	12,07%	95,78%

6.3. List of missions undertaken by the Supervisor in 2023

Missions undertaken by the Supervisor in 2023				
Wojciech Rafał Wiewiórowski				
	Date from	Date to	Purpose	Cost (EUR)
1.	29/11/2023	30/11/2023	53rd EU DPOs Meeting, FRA	970.86
2.	02/11/2023	05/11/2023	4th annual Global AI policy Summit, CHE	398.86
3.	03/10/2023	03/10/2023	LIBE meeting, FRA	473.10
4.	24/10/2023	25/10/2023	International Organizations Workshop on Data Protection, FRA	735.38
5.	05/10/2023	07/10/2023	Kongres Federacji Adwokatur Europejskich, POL	58.62
6.	14/09/2023	16/09/2023	Berlin Forum - mentor group, DEU	662.26
7.	04/09/2023	04/09/2023	Keynote speech in Opening Programme of Advanced Master in Privacy, Cybersecurity and Data Management University of Maastricht, NDL	40.56
8.	05/09/2023	08/09/2023	"Economic Forum Programme Council V Cybersecurity Forum as part of the 32nd Economic Forum", POL	1 212.72
9.	09/08/2023	10/08/2023	Invitation to IFIP Summer School on Privacy and Identity Management, NOR	126.00
10.	17/09/2023	19/09/2023	EDEN Conference 2023, ESP	974.14
11.	15/10/2023	21/10/2023	45th Global privacy Assembly Bermuda 2023, BMU	5 777.95

12.	01/06/2023	02/06/2023	ENISA event, FRA	678.89
13.	09/05/2023	10/05/2023	Conference in Warsaw & meeting with Frontex, POL	846.71
14.	11/05/2023	12/05/2023	EDPS-DPO meeting at EUIPO, Alicante, ESP	627.30
15.	22/05/2023	23/05/2023	Datenschutzkongress 2023 Berlin, DEU	619.22
16.	16/04/2023	20/04/2023	Privacy Symposium in Venice, ITA	3 449.31
17.	13/03/2023	15/03/2023	Opening of the EDPS Strasbourg offices and meetings with MEPs, and Council of Europe, FRA	661.98
18.	26/01/2023	26/01/2023	Audience solennelle, Court of Justice, LUX	38.59
19.	02/02/2023	03/02/2023	CLP lecture at London UCL Faculty of Laws, University College London, GRB	928.59
20.	27/02/2023	01/03/2023	Lecture at the SWPS University in Warsaw, POL	1 216.38
21.	26/03/2023	27/03/2023	"12th meeting of the JPSG on Europol, Stockholm, SWE	753.46
22.	17/06/2023	23/06/2023	G7 Summit, JPN	4 194.42
23.	02/04/2023	07/04/2023	Mission to Washington and Invitation to IAPP Global Privacy Summit and DPA Day, Washington, DC, USA	5 688.90
24.	16/01/2023	16/01/2023	Lecture at Leiden University, NLD	145.28
Total:				31 279.45