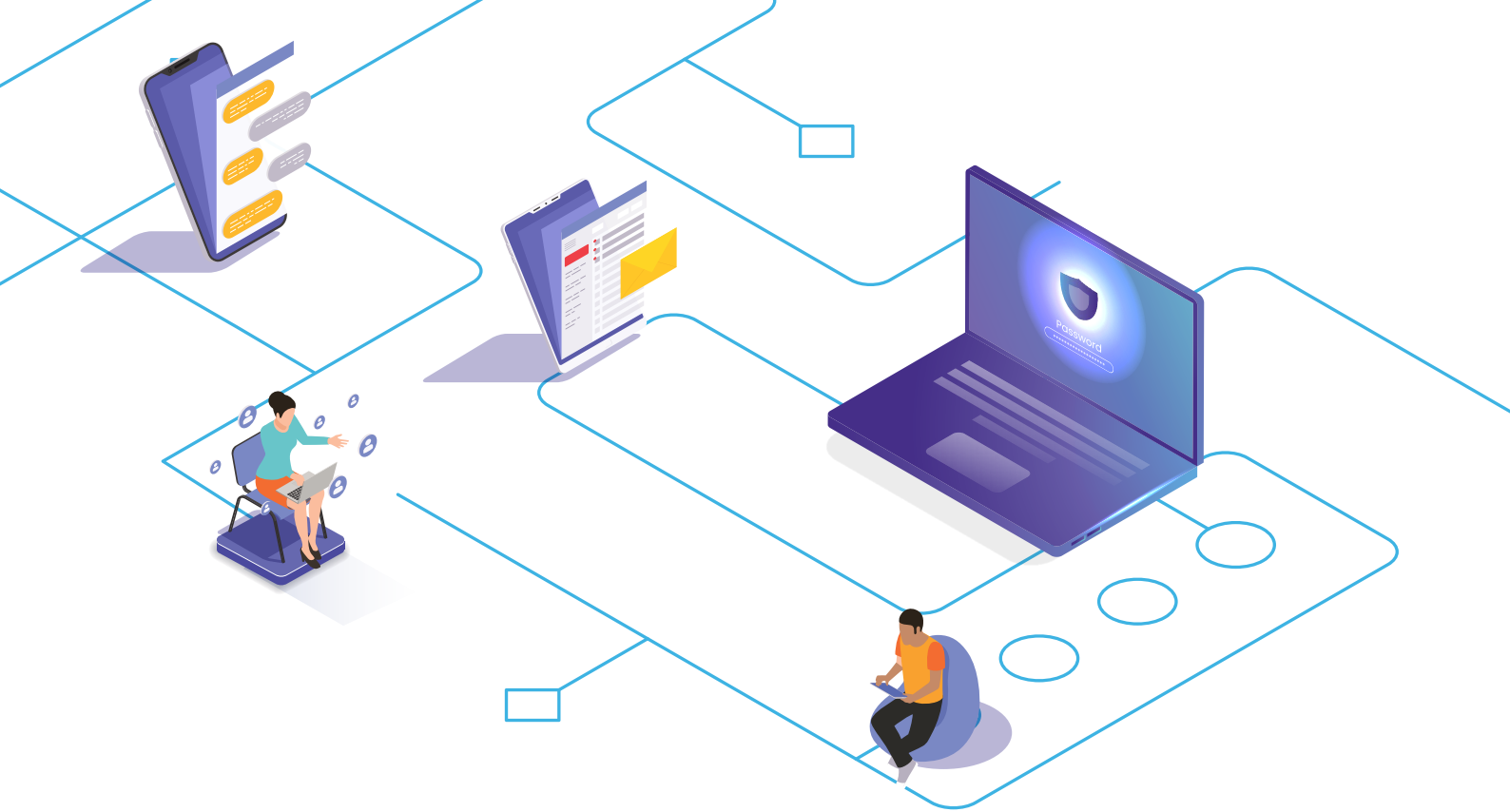


SAFEGUARDING INDIVIDUALS' DIGITAL RIGHTS





INTRODUCTION

In 2023, the EDPB continued giving important common interpretations of data protection law and key legal principles that shape the digital landscape. It also took a series of initiatives to boost enforcement cooperation, adopted important opinions on draft legislation and launched a Guide for Small Businesses. In May 2023, Anu Talus was elected as EDPB Chair for five years, taking over from Andrea Jelinek, who was Chair from 2018 until 2023.

The European Data Protection Board (EDPB) is an independent European body, established by the General Data Protection Regulation (GDPR), which aims to ensure the consistent application of data protection rules across the European Economic Area (EEA).

The EDPB comprises of the Heads of the EU Data Protection Authorities (DPAs) and the European Data Protection Supervisor (EDPS). The DPAs of the EEA countries (Iceland, Liechtenstein and Norway) are also members of the EDPB, although they do not have the right to vote. The European Commission and – with regard to GDPR-related matters – the European Free Trade Association Surveillance Authority have the right to participate in the activities and meetings of the EDPB. The EDPB is based in Brussels.

The EDPB has a [Secretariat](#), which is provided by the EDPS. A [Memorandum of Understanding](#) determines the terms of cooperation between the EDPB and the EDPS.

HIGHLIGHTS 2023

MARCH 15

Launch of the 2023 Coordinated Enforcement Action, focusing on the designation and position of Data Protection Officers

MAY 22

€1.2 billion fine to Meta Ireland Limited issued by the Irish DPA following the EDPB's Binding Decision 1/2023

FEBRUARY 28

Opinion 5/2023 on the draft adequacy decision regarding the EU-U.S. Data Privacy Framework

APRIL 27

Launch of the EDPB Data Protection Guide for Small Business

MAY 25

Election of Anu Talus as the new Chair and Irene Loizidou Nikolaidou as the new Deputy Chair

SEPTEMBER 15

€345 million fine against TikTok Technology Limited by the Irish DPA, following EDPB's Binding Decision 2/2023

OCTOBER 27

Urgent Binding Decision 01/2023 instructing the Irish DPA to take, within two weeks, final measures regarding Meta Ireland Limited

SEPTEMBER 19

EDPB/EDPS joint opinion on a Proposal for a Regulation laying down additional procedural rules relating to the enforcement of the GDPR

DECEMBER 12-13

Contribution to the European Commission's report on the application of the GDPR under Art. 97

1. THE EDPB SECRETARIAT

The EDPB Secretariat supports the Board in drafting binding decisions and in defending the EDPB in Court. It also contributes to the preparation of other EDPB documents, such as guidance and legal advice on new legislative proposals. It disseminates this work to the public, ensures press relations for the EDPB, and supports the Chair in her role of representing the Board.

An important awareness-raising action for which the EDPB Secretariat took the lead in 2023 was the publication of the [Data Protection Guide for Small Business](#). The 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 guide helps raise awareness of the GDPR among SMEs and aims to facilitate compliance, via videos, flowcharts and practical tips.

The EDPB Secretariat develops and runs the EDPB's IT tools which are used by approximately 1500 staff members of EEA supervisory authorities. It organised over 360 EDPB meetings in 2023, during which members prepare the EDPB documents aimed at a consistent application of data protection laws in Europe.

The EDPB Secretariat is now also providing the secretariat of the [Coordinated Supervisory Committee](#), which ensures coordinated supervision of large-scale IT systems and EU bodies and agencies. In 2023, this activity extended to the supervision of the [Schengen Information System](#), in addition to the [Europol](#), EPPO, Eurojust and Internal Market Information (IMI) system that were already falling under the framework of the EDPB activities.

As the volume and complexity of the EDPB's tasks substantially increased, the role of the EDPB Secretariat has also evolved. Following the

changes made in early 2023, the EDPB Secretariat is now composed of five sectors. This structural improvement was necessary to address the growing workload of the EDPB.

2. EUROPEAN DATA PROTECTION BOARD - ACTIVITIES IN 2023

The EDPB's goal is to ensure a consistent application and enforcement of data protection law across the European Economic Area, EEA.

To this end, the EDPB adopts binding decisions to settle disputes on GDPR enforcement, issues guidance to clarify and promote compliance of EU data protection law, and adopts opinions to ensure the consistency of the activities of the DPAs or to advise the European Commission on any issue related to the protection of personal data.

In 2023, the EDPB adopted two binding decisions and one urgent binding decision.

In addition, the EDPB issued two new guidelines, on the topics of [Art. 37 of the law enforcement Directive](#) and on the [technical scope of Art. 5\(3\) of the ePrivacy Directive](#).

The EDPB adopted 37 consistency opinions (Art. 64 GDPR), of which the EDPB Secretariat led the drafting of 10 opinions and contributed to a further 14. These opinions mainly concerned decisions regarding Binding Corporate Rules and draft accreditation requirements of a certification body or a code of conduct monitoring body.

The EDPB also adopted two legislative opinions, jointly with the EDPS.

The 2023 Annual Report contains a full list of all guidance, consistency and legislative documents and discusses some of these in greater detail.

2.1. BINDING DECISIONS

Binding Decision 1/2023 on the dispute submitted by the Irish SA on data transfers by Meta Platforms Ireland Limited for its Facebook service (Art. 65 GDPR)

In April 2023, the EDPB settled a dispute on data transfers by Meta Platforms Ireland Limited (Meta IE) in its [Binding Decision 1/2023](#).

Following this binding decision, Meta IE was issued a €1.2 billion fine by the Irish Data Protection Authority (Irish DPA). This fine was imposed for Meta's transfers of personal data to the U.S. 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.

Binding Decision 2/2023 on the dispute submitted by the Irish SA regarding TikTok Technology Limited (Art. 65 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 its [Binding Decision 2/2023](#), the EDPB analysed the design practices implemented by TikTok in the context of two pop-up notifications that were 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 €345 million.

Urgent Binding Decision 01/2023 requested by the Norwegian SA for the ordering of final measures regarding Meta Platforms Ireland Ltd (Art. 66(2) GDPR)

Following the EDPB's [urgent binding decision 01/2023](#) of 27 October 2023, the Irish DPA imposed a ban on Meta IE for the processing of personal data for behavioural advertising purposes on the basis of contract and legitimate interest. The EDPB urgent binding decision followed a request from the Norwegian Data Protection Authority to order final measures which would have effect in the entire EEA.

2.2. GENERAL GUIDANCE

In 2023, the EDPB adopted two new guidelines, as well as nine guidelines following public consultation. The 2023 Annual report discusses two noteworthy sets of guidance in greater detail.

The EDPB adopted [Guidelines 03/2022 on deceptive design patterns in social media platforms](#) after public consultation, on 14 February 2023. Their aim is to lay down practical recommendations and guidance to social media providers as controllers of social media, designers and users of social media platforms, on how to assess and avoid deceptive design patterns in social media interfaces. The existence of such patterns often leads users to make unintended, unwilling, and/or potentially harmful decisions concerning the processing of their personal data. The guidelines provide a non-exhaustive list of deceptive design patterns during the life cycle of a social media account (i.e. from the sign-up stage to the closing of a social media account) as well as elaborate on the best practices at the end of each use case.

With its [Guidelines 05/22 on the use of facial recognition technology \(FRT\) in the area of law enforcement](#), the EDPB contributes to the ongoing

integration of FRT in the area of law enforcement covered by the Law Enforcement Directive and the national laws transposing it. The guidelines provide relevant information to lawmakers at EU and national level, as well as for law enforcement authorities (LEAs) when implementing and using FRT-systems. The scope of the guidelines is limited to FRT. However, other forms of processing of personal data based on biometrics by LEAs, especially if processed remotely, may entail similar or additional risks for individuals, groups and society.

2.3. LEGISLATIVE CONSULTATION

In the context of legislative consultations requested by the European Commission, the EDPB adopts opinions on issues pertaining to data protection in the EU. Legislative opinions may be adopted solely by the EDPB or jointly with the EDPS. The annual report contains the full list of adopted legislative advice.

A noteworthy output of the EDPB's efforts in 2023, which is discussed in greater detail in the report, is its [Joint Opinion 01/2023 with the EDPS on the Proposal for a Regulation laying down additional procedural rules relating to the enforcement of Regulation \(EU\)2016/679](#). This legislative initiative follows the EDPB's 2022 wish list.

3. STAKEHOLDER CONSULTATION

The EDPB conducted the sixth annual survey to review its activities under Art. 71(2) GDPR. The survey focused on the EDPB's work and output during the year, particularly its guidelines, joint opinions, and consultation work. It was conducted with a view to determine the usefulness of its guidance for interpreting GDPR provisions, and identify areas in which better support could be provided to organisations and individuals in navigating the EU data protection framework. Among the key stakeholders surveyed were

academics in the field of data protection and privacy rights, business professionals and members of non-governmental organisations.

In general, the stakeholders surveyed provided positive feedback on the EDPB's guidelines and noted that they offer high practical value by providing context to complex regulations in a comprehensive manner. Stakeholders continually rely on a wide range of guidelines due to the provision of well-illustrated examples that are understandable, even where the stakeholders' primary field is not data protection. To further improve the guidelines, constructive feedback was given to introduce visualisations such as videos to provide higher clarity on more technical sections of the guidelines.

4. ENFORCEMENT COOPERATION AND ENFORCEMENT BY DPAs

National DPAs are independent public authorities that ensure the consistent application of data protection law. They play a key role in safeguarding individuals' data protection rights through cooperation and exercising corrective powers. The EDPB undertakes a number of initiatives to promote cooperation on enforcement among DPAs.

4.1. EDPB ACTIVITIES TO SUPPORT ENFORCEMENT

For its 2023 Coordinated Enforcement Action, the EDPB selected "[the Designation and Position of Data Protection Officers](#)". Throughout 2023, 25 DPAs across the EEA conducted coordinated investigations and contacted various organisations, as well as individual DPOs, receiving more than 17,000 replies. The DPAs consolidated their findings into national reports, which were then combined to produce an EDPB report, listing the obstacles currently faced by DPOs, along with a series of recommendations to

further strengthen their role. The report encourages DPAs to carry out more awareness-raising activities and organisations to ensure that DPOs have sufficient opportunities.

In addition, the Support Pool of Experts (SPE) helps DPAs increase their capacity to supervise and enforce the safeguarding of personal data. 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. So far, a total of 13 projects, some of which are on AI-related matters, have been launched.

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, and which is now published as open-source code on code.europa.eu.

For the second time, the EDPB commissioned a thematic case digest, on [security of processing and data breach notification](#) as part of its SPE initiative. Case digests are overviews of decisions adopted under the One-Stop-Shop procedure about a particular topic. The purpose of these digests is to give the DPAs and the general public, including privacy professionals, insight into the decisions adopted by DPAs following cross-border cooperation procedures.

4.2. COOPERATION AND CONSISTENCY

A case with a cross-border component is registered in a central database via the IML. In total, 1023 procedures related to the One-Stop-Shop (Art. 60 GDPR) have been triggered in 2023, out of which 442 Final Decisions.

4.3. NATIONAL CASES WITH EXERCISE OF CORRECTIVE POWERS

DPAs have different investigative, advisory and corrective measures at their disposal to ensure entities within their countries apply data protection law correctly and consistently. These corrective measures include imposing processing limitations, bans or fines.

In 2023, DPAs jointly issued over €1.9 billion in fines. A detailed breakdown of fines issued in 2023 can be found in Chapter 5, as well as a non-exhaustive list of national enforcement actions.

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