

Brussels, 12 September 2022
Ref.: OUT2022 -0068

Dear President Metsola,
Your Excellency Hrdá,

We, the Members of the European Data Protection Board (EDPB) and the European Data Protection Supervisor (EDPS), are writing to you regarding the 2023 budget, to call upon your support. We are deeply concerned that this budget, if not substantially increased, would be significantly too low to allow the EDPB and the EDPS to fulfil their tasks appropriately, as required by the General Data Protection Regulation (GDPR) and Regulation 2018/1725 (EUDPR).

The EDPB budget forms part of the broader budget of the EDPS*. The budget devoted to the EDPB for 2022 represents 6 812 000 euros and covers all aspects related to the functioning of the Board. This includes and is not limited to expenditure related to EDPB meetings at plenary and subgroup level, translation and interpretation costs, IT services, and remuneration of the EDPB Secretariat staff.

The EDPB Secretariat supports the Members of the Board by providing analytical, administrative and logistical support. In particular, it is responsible for the settlement of disputes between national data protection authorities (DPAs) within the One-Stop-Shop mechanism on draft decisions concerning private sector practices that may include fines amounting to several hundreds of millions of euros.

During the 2023 budget preparation, the EDPS made two consecutive budget proposals covering also the activities of the EDPB, which were both rejected by the European Commission. The second (reduced) proposal included a request for **8 additional staff members** (4 officials and 4 contractual agents) for the EDPB Secretariat in addition to its current 40 staff members, and **8 additional staff members for EDPS** itself (5 officials and 3 contractual agents). As for the EDPB only, the total requested budget for 2023 within this proposal was 7 766 000 euros. Although this would represent an increase of 14% compared to 2022, the budget remained 17% below the ceilings of the EDPS contribution to the Multi-Annual Financial Framework, which was adopted in 2020.

The EDPB is essential for the implementation of the GDPR, one of the landmark EU legislations of the last decades, which regulates a very high number of organisations processing personal data, including large companies such as big tech, SMEs, and the public sector. There are high expectations from society at large regarding the GDPR, especially with regard to its enforcement vis-a-vis big tech. However, the EDPB Secretariat is currently understaffed and at risk of no longer being able to fulfil its legal duties at the service of the EDPB and of the GDPR.

Should this happen, **the enforcement of individuals' data protection rights would be weakened and the credibility of the GDPR undermined.**

We call for your support in respect of the budget proposal, which aims at strengthening 3 essential pillars for the success of GDPR:

- the credibility of enforcement. As DPAs are developing their enforcement activities, this generates more disputes requiring the EDPB's intervention, a unique responsibility in the EU digital regulatory governance landscape. If the EDPB cannot settle a dispute within 2 months, the unilateral decision of the Lead Supervisory Authority will prevail, not taking into account the objections made by other Concerned Supervisory Authorities;
- the robustness of enforcement, as higher fines will inevitably lead to more litigation. The EDPB decisions must therefore meet very high quality standards and be able to withstand the legal firing power of technology companies, both of which require sufficient EDPB staff;
- the predictability of the legal framework, as the EDPB must continue to issue guidance to ensure and promote the harmonised application of the GDPR.

Moreover, the EDPB and the EDPS continue to receive new tasks from the legislator. The EDPB will be entrusted with the coordination of the supervision of the EU's large scale systems and agencies, while the EDPS is responsible for the actual supervision of the central components of the EU's large scale systems and of the EU agencies. The number of these systems and agencies will increase from 4 to date, to 12 by 2023, including Europol's information system, the Schengen system, the Visa information system, Eurodac and Etias. Moreover, the EDPS supervisory role and responsibilities on all European Institutions, bodies and agencies has increased considerably, also as a result of the expanded mandate of EUIs active in the Area of Freedom Security and Justice field (e.g. Europol) and the European Public Prosecution Office operations.

Finally, the EDPB and EDPS are increasingly consulted by the European Commission on legislative proposals, a role we consider crucial to ensure that data protection rights are upheld as the EU shapes its digital governance landscape. In 2021, the total volume of legislative consultations requests received by the EDPS essentially tripled in comparison to 2020, a trend which is expected to remain and grow in the future.

In light of the above, we strongly urge your support for our budget requests which include 8 additional staff members (4 officials and 4 contractual agents) for the EDPB Secretariat and 8 additional staff members (5 official and 3 contractual agents) for the EDPS Secretariat.

Fundamental rights are not to be taken for granted and require the appropriate human and financial resources to ensure their protection. We, as data protection authorities, are committed to working for the interests of individuals, and we hope you will share this commitment too.

Yours sincerely,
Dr Andrea Jelinek

Dr Wojciech Wiewiórowski

* References to the EDPS budget in this letter should be understood as also covering the EDPB Secretariat.

Cc:

Mr Didier REYNDERS, Commissioner for Justice

Mr Johannes HAHN, Commissioner for Budget and Administration

Mr Johan VAN OVERTVELDT, Chair, Committee on Budgets (BUDG)

Ms Monika HOHLMEIER, Chair, Committee on Budgetary Control (CONT)

Mr Juan Fernando LOPEZ AGUILAR, Chair, Committee on Civil Liberties, Justice and Home Affairs (LIBE)

Mr. Niclas HERBST, Member of the European Parliament, rapporteur on Parliament's estimates of revenue and expenditure for the financial year 2023

Mr Serge DE BIOLLEY, Director for Justice, Secretariat General of the Council

Mr Olivier MICOL, Head of data protection unit, Directorate General for Justice and Consumers, EU Commission