EDPS

EUROPEAN DATA PROTECTION SUPERVISOR

The EU's independent data protection authority

ANNEX I

EDPS survey on Covid-19 related processing activities by EU institutions, bodies, offices and agencies

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WHY THIS SURVEY?

A number of European institutions, agencies and bodies (EUIs) have implemented new processing activities to help prevent the spread of Covid-19 infection, in the context of their return to work strategy. Moreover, the Covid-19 outbreak forced many EUIs to switch their operation almost exclusively to telework for most of their staff. The need for teleworking tools to maintain activities has grown dramatically in an extremely short timeframe, e.g. for conference calls, remote collaboration, audio- or videoconferencing or webinars. Finally, some EUIs have started carrying out new processing activities as part of their core business missions in public health.

The survey will focus on three areas:

- new processing operations implemented by EUIs as part of their return to work strategy (part 1);
- IT tools or solutions implemented or enhanced by EUIs to ensure business continuity in times of telework (part 2);
- new processing operations implemented by EUIs in charge of public health related tasks (part 3).

At the end of the survey, EUIs are given the opportunity to bring other matters to the EDPS' attention in the context of Covid-19 related data processing operations (Part 4).

With this survey, the EDPS aims to map the processing activities and tools used by EUIs to ensure business continuity in times of Covid-19 and to gather information as to how EUIs comply with the data protection requirements under Article 8 of the Charter of Fundamental Rights and Regulation 2018/1725[1] (the Regulation).

The EDPS intends to use the results of the survey to identify new topics that would deserve specific orientations, in addition to the orientations on the Reactions of EUIs as employers to the Covid-19 crisis (15 July 2010) on Body Temperature Checks (1 September 2020) and the forthcoming orientations on contact tracing. The EDPS may also rely on the survey to conduct targeted audits and investigations.

Our overall objective is to ensure that these new processing operations are compliant and respect people's right to privacy and data protection.

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[1] 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, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC, OJ L 295, 21.11.2018, pp. 39–98.

INFORMATION ON THE PROCESSING OF PERSONAL DATA OF THE SURVEY'S RESPONDERS

[...]

INSTRUCTIONS ON HOW TO FILL THE SURVEY

Please provide relevant information as needed. In case it is not applicable write N/A and if the information is not available please write not available and provide a reason why.

Section 1 and 2 should be completed by all EUIs. Section 3 should only be filled by EUIs dedicated to public health issues. Section 4 is optional.

We recommend that the DPO review the survey and send it to the EDPS upon validation.

EDPS Contact persons:

[...]

QUESTIONNAIRE

*Fields marked as * are mandatory*

* Please indicate the **responding EUI:**

Name and function of person responding to EDPS questionnaire (e.g. Jane DOE, Data Protection Officer, John DOE, Communications officer):

*** First name**

*** Last name**

***Function**

1. New processing operations implemented by EUIs to fight Covid-19

1.1. * Did your EUI implement new data processing operations in relation to its staff, visitors, external contractors, in the context of the fight against Covid-19?

Yes		No	

If your answer is no, go to Section 2.1.

1.2. If yes, what kind of processing operations?

.	2. Name of processing	3. Yes	4. No
1.	***Body temperature check to filter access to the EUI premises***		
2.	***Contact tracing*** (requests to staff to report any contact with infected persons or positivity, as well as colleagues with whom infected staff member was in contact with during incubation period, etc.)		
3.	***Covid-19 diagnostic tests and handling of results***		
4.	***Monitoring staff presence in the EUI premises*** (check occupancy rate, contact tracing)		
5.	...		

1.3. For each of the processing operations implemented by your EUI, please provide the following information.

1.3.1. **Body temperature checks** to filter access to the EUI premises

Description	***Purpose(s)***
	Filter access to EUI premises ☐ Require Covid-19 testing ☐ Other:
	Legal basis

	Indicate a precise legal basis under Art. 5 or 10 of the Regulation: *If you rely on Art. 5(1)(b) or 10(2)(b) or (i), please indicate the relevant EU law:*
	Provide a link to the publicly available record of the processing[2], if any
	Link to the publicly available record: No publicly available record ☐ No record ☐
	Categories of individuals targeted
	Staff ☐ Visitors ☐ External contractors ☐ Other:
	Type of temperature check
	Basic temperature checks[3] ☐ Other systems[4] (specify):
	Special categories of data
	Data concerning health ☐ Other (specify):
	Automated or manual

[2] *See Article 31 of Regulation 2018/1725.*

[3] *Basic temperature checks are designed to measure body temperature only, operated manually and not followed by registration, documentation, or other processing of an individual's personal data. See EDPS Orientations on body temperature checks*

[4] *Others systems of temperature checks, operated manually or followed by registration, documentation or other processing of an individual's personal data, or systems operated automatically with advanced temperature measurement devices. See EDPS Orientations on body temperature checks*

	Automated ☐ Manual ☐
	Mandatory or optional for individuals concerned
	Mandatory ☐ Optional ☐
	Recipient(s) (security, HR, medical service, etc.)
DPIA	***Did your EUI conduct a DPIA[5]?***
	Yes ☐ No ☐
	List the criteria triggering Article 39 of the Regulation, outcome of the DPIA
	- Criteria: - Outcome, i.e. need for prior consultation Yes ☐ No ☐
	Was the DPIA initiated following a threshold assessment (assessment of the risks to determine whether a DPIA is needed)[6]?
	Yes ☐ No ☐
	If no, what was the trigger for the DPIA (management **decision, …)? *Please explain.***
Information of data Subjects	***Did your EUI inform data subjects about the new processing operation?***

[5] *Article 39 of the Regulation. See EDPS Accountability on the ground Part II: DPIAs and Prior Consultations.*

[6] *See EDPS Accountability on the ground Part 1: Records, Registers and when to do DPIAs (in particular p. 11).*

	Yes ☐ No ☐
	Details on how the information was provided (format and means of communication)
	Data protection statement**:** Yes ☐ No ☐ If yes, explain how the DP statement was made available to data subjects:
DPO involvement	***Was the DPO involved in the design or implementation of the processing?***
	Yes ☐ No ☐
	If yes, at which stage (design phase, DPIA, …), active or passive role (information), oral/written advice**?**
	Design ☐ DPIA ☐ Active role: yes ☐ no ☐ If yes: written advice ☐ oral advice, participation in meetings ☐
External Contractors **(processors)**	***Does the processing involve the recourse to external contractors (processors)?***
	Yes ☐ No ☐
	Details on the contract
	Name and country of the contractor:
	Role:
	Data protection clauses: Yes ☐ No ☐
Duration	***Is the processing operation still ongoing?***
	Yes ☐ No ☐

	Did your EUI specify a time limit as to the processing operation or a periodic review of the necessity to go on with the processing?
	Yes ☐ No ☐
	Retention duration or recurrence of the review
	- Retention: - Recurrence of review:

1.3.2. Manual **contact tracing** (requests to staff to report any contact with infected persons or positivity, as well as colleagues with whom infected staff member was in contact with during incubation period, etc.)

Description	***Purpose(s)***
	Requests to staff to report contacts with infected persons ☐ Requests to staff to report on positivity, as well as contacts colleagues with whom infected staff member was in contact with during incubation period ☐ Other:
	Legal basis
	Indicate a precise legal basis under Art. 5 or 10 of the Regulation: *If you rely on Art. 5(1)(b) or 10(2)(b) or (i), please indicate the relevant EU law:*
	Provide a link to the publicly available record of the processing[7], if any
	Link to the publicly available record: No publicly available record ☐

[7] *See Article 31 of Regulation 2018/1725.*

	No record ☐
	Categories of individuals targeted
	Staff ☐ Visitors ☐ External contractors ☐ Other:
	Special categories of data
	Racial or ethnic origin ☐ Political opinions ☐ Religious or philosophical beliefs ☐ Trade union membership ☐ Genetic data ☐ Biometric data for the purpose of uniquely identifying a natural person ☐ Data concerning health ☐ Data concerning sex life or sexual orientation ☐
	Automated or manual
	Automated ☐ Manual ☐
	Mandatory or optional for individuals concerned
	Mandatory ☐ Optional ☐
	Recipient(s) (security, HR, medical service, etc.)

DPIA	***Did your EUI conduct a DPIA[8]?***
	Yes ☐ No ☐
	List the criteria triggering Article 39 of the Regulation, outcome of the DPIA
	- Criteria: - Outcome, i.e. need for prior consultation Yes ☐ No ☐
	Was the DPIA initiated following a threshold assessment (assessment of the risks to determine whether a DPIA is needed)[9]?
	Yes ☐ No ☐
	If no, what was the trigger for the DPIA (management **decision, …)?** ***Please explain.***
Information of data Subjects	***Did your EUI inform data subjects about the new processing operation?***
	Yes ☐ No ☐
	Details on how the information was provided (format and means of communication)
	Data protection statement**:** Yes ☐ No ☐ If yes, explain how the DP statement was made available to data subjects:
DPO involvement	***Was the DPO involved in the design or implementation of the processing?***

[8] *Article 39 of the Regulation. See EDPS Accountability on the ground Part II: DPIAs and Prior Consultations.*

[9] *See EDPS Accountability on the ground Part 1: Records, Registers and when to do DPIAs (in particular p. 11).*

	Yes ☐ No ☐
	***If yes, at which stage (design phase, DPIA, …), active or passive role (information), oral/written advice*?**
	Design ☐ DPIA ☐ Active role: yes ☐ no ☐ If yes: written advice ☐ oral advice, participation in meetings ☐
External Contractors **(processors)**	***Does the processing involve the recourse to external contractors (processors)?***
	Yes ☐ No ☐
	Details on the contract (name, role, DP clauses)
	Name and country of the contractor:
	Role:
	Data protection clauses: Yes ☐ No ☒
Duration	***Is the processing operation still ongoing?***
	Yes ☐ No ☐
	Did your EUI specify a time limit as to the processing operation or a periodic review of the necessity to go on with the processing?
	Yes ☐ No ☐
	Retention duration or recurrence of the review
	- Retention: - Recurrence of review:

1.3.3. **Covid-19 diagnostic tests and handling of results** (testing carried out at the suggestion/obligation of the EUI and/or obligation to transmit test results to the EUI)

Description	***Purpose(s)***
	Health of staff in general ☐ Limit access to the EUI premises to staff that can provide negative test ☐ Other
	Type of testing
	Testing within your EUI ☐ Testing by another EUI ☐ Testing outside the EUIs (general practitioners, testing centre, hospital, ...) ☐
	Legal basis
	Indicate a precise legal basis under Art. 5 or 10 of the Regulation: *If you rely on Art. 5(1)(b) or 10(2)(b) or (i), please indicate the relevant EU law:*
	Provide a link to the publicly available record of the processing[10], if any
	Link to the publicly available record: No publicly available record ☐ No record ☐
	Categories of individuals targeted
	Staff ☐ Visitors ☐ External contractors ☐

[10] *See Article 31 of Regulation 2018/1725.*

	Other:
	Special categories of data
	Racial or ethnic origin ☐ Political opinions ☐ Religious or philosophical beliefs ☐ Trade union membership ☐ Genetic data ☐ Biometric data for the purpose of uniquely identifying a natural person ☐ Data concerning health ☐ Data concerning sex life or sexual orientation ☐
	Automated or manual
	Automated ☐ Manual ☐
	Mandatory or optional for individuals concerned
	Mandatory ☐ Optional ☐
	Recipient(s) (security, HR, medical service, etc.)
DPIA	***Did your EUI conduct a DPIA[11]?***
	Yes ☐ No ☐
	List the criteria triggering Article 39 of the Regulation, outcome of the DPIA
	- Criteria:

[11] *Article 39 of the Regulation. See EDPS Accountability on the ground Part II: DPIAs and Prior Consultations.*

	- Outcome, i.e. need for prior consultation *Yes* ☐ *No* ☐
	Was the DPIA initiated following a threshold assessment (assessment of the risks to determine whether a DPIA is needed)[12]?
	Yes ☐ No ☐
	If no, what was the trigger for the DPIA (management **decision, …)?** ***Please explain.***
Information of data Subjects	***Did your EUI inform data subjects about the new processing operation?***
	Yes ☐ No ☐
	Details on how the information was provided (format and means of communication)
	Data protection statement**:** Yes ☐ No ☐ If yes, explain how the DP statement was made available to data subjects:
DPO Involvement	***Was the DPO involved in the design or implementation of the processing?***
	Yes ☐ No ☐
	***If yes, at which stage (design phase, DPIA, …), active or passive role (information), oral/written advice*.**
	Design ☐ DPIA ☐ Active role: yes ☐ no ☐ If yes: written advice ☐

[12] *See EDPS Accountability on the ground Part 1: Records, Registers and when to do DPIAs (in particular p. 11).*

	oral advice, participation in meetings ☐
External Contractors **(processors)**	***Does the processing involve the recourse to external contractors (processors)?***
	Yes ☐ No ☐
	Details on the contract (name, role, DP clauses)
	Name and country of the contractor:
	Role:
	Data protection clauses: Yes ☐ No ☐
Duration	***Is the processing operation still ongoing?***
	Yes ☐ No ☐
	Did your EUI specify a time limit as to the processing operation or a periodic review of the necessity to go on with the processing?
	Yes ☐ No ☐
	Retention duration or recurrence of the review
	- Retention: - Recurrence of review:

1.3.4. Monitoring presence in the EUI premises

Description	***Purpose(s)***
	Check occupancy rate ☐ Contact tracing if a staff member is reported positive in the days following presence in the EUI premises ☐
	Legal basis
	Indicate a precise legal basis under Art. 5 or 10 of the Regulation:

	If you rely on Art. 5(1)(b) or 10(2)(b) or (i), please indicate the relevant EU law:
	Provide a link to the publicly available record of the processing[13], if any
	Link to the publicly available record: No publicly available record ☐ No record ☐
	Categories of individuals targeted
	Staff ☐ Visitors ☐ External contractors ☐ Other:
	Special categories of data
	Racial or ethnic origin ☐ Political opinions ☐ Religious or philosophical beliefs ☐ Trade union membership ☐ Genetic data ☐ Biometric data for the purpose of uniquely identifying a natural person ☐ Data concerning health ☐ Data concerning sex life or sexual orientation ☐
	Automated or manual
	Automated ☐ Manual ☐

[13] *See Article 31 of Regulation 2018/1725.*

	Mandatory or optional for individuals concerned
	Mandatory ☐ Optional ☐
	Recipient(s) (security, HR, medical service, etc.)
DPIA	***Did your EUI conduct a DPIA[14]?***
	Yes ☐ No ☐
	List the criteria triggering Article 39 of the Regulation, outcome of the DPIA
	- Criteria: - Outcome, i.e. need for prior consultation Yes ☐ No ☐
	Was the DPIA initiated following a threshold assessment (assessment of the risks to determine whether a DPIA is needed)[15]?
	Yes ☐ No ☐
	If no, what was the trigger for the DPIA (management **decision, ...)? *Please explain*.**
Information of data Subjects	***Did your EUI inform data subjects about the new processing operation?***
	Yes ☐ No ☐
	Details on how the information was provided (format and means of communication)

[14] *Article 39 of the Regulation. See EDPS Accountability on the ground Part II: DPIAs and Prior Consultations.*
[15] *See EDPS Accountability on the ground Part 1: Records, Registers and when to do DPIAs (in particular p. 11).*

	Data protection statement**:** Yes ☐ No ☐ If yes, explain how the DP statement was made available to data subjects:
DPO Involvement	***Was the DPO involved in the design or implementation of the processing?***
	Yes ☐ No ☐
	***If yes, at which stage (design phase, DPIA, …), active or passive role (information), oral/written advice*.**
	Design ☐ DPIA ☐ Active role: yes ☐ no ☐ If yes: written advice ☐ oral advice, participation in meetings ☐
External Contractors (processors)	***Does the processing involve the recourse to external contractors (processors)?***
	Yes ☐ No ☐
	Details on the contract (name, role, DP clauses)
	Name and country of the contractor:
	Role:
	Data protection clauses: Yes ☐ No ☐
Duration	***Is the processing operation still ongoing?***
	Yes ☐ No ☐
	Did your EUI specify a time limit as to the processing operation or a periodic review of the necessity to go on with the processing?
	Yes ☐ No ☐
	Retention duration or recurrence of the review

	- Retention: - Recurrence of review:

1.3.5. [**Name of the processing operation**]

Please use a separate table for each additional processing operation.

+ copy/paste the table

2.

IT tools and solutions implemented/enhanced by EUIs for working remotely in times of Covid-19

2.1. * Has your EUI started to use **new IT tools**, including communication tools, to ensure business continuity while working remotely?

Yes		No	

If your answer is no, go to Question 2.3.

2.2. What are these new tools (videoconferencing, instant messaging, remote connection from employees' devices, etc.)?

Please use a separate table for each tool.

2.2.1. **Tool No 1**

Description	***Type and name of the tool***
	Related processing operation, intended use
	Meetings in general ☐ Selection/evaluation procedures ☐ Other:
Records	***Did your EUI update the corresponding record(s) of the data undergoing processing to include the use of the new tool(s)? Or did your EUI create a new/specific record for the tool?***
	Update of existing record(s) ☐ New/specific record ☐ No record ☐
DPIA	***Did your EUI conduct a DPIA[16] on the data undergoing processing using the tool?***
	Yes ☐ No ☐
	List the criteria triggering Article 39 of the Regulation, outcome of the DPIA

[16] *Article 39 of the Regulation. See EDPS Accountability on the ground Part II: DPIAs and Prior Consultations.*

	- Criteria: - Outcome, i.e. need for prior consultation Yes ☐ No ☐
	Was the DPIA initiated following a threshold assessment (assessment of the risks to determine whether a DPIA is needed)[17]?
	Yes ☐ No ☐
	If no, what was the trigger for the DPIA (management **decision, …)? *Please explain.***
Information of data Subjects	***Did your EUI inform data subjects about the new tool?***
	Yes ☐ No ☐
	Details on how the information was provided (format and means of communication)
	Update of existing DP statement(s) ☐ New/specific DP statement ☐ No DP statement ☐ If yes, explain how the DP statement (or its modification) was made available to data subjects:
DPO Involvement	***Was the DPO involved in the design or implementation of the tool?***
	Yes ☐ No ☐
	If yes, at which stage (design phase, DPIA, …), active or passive role (information), oral/written advice?

[17] *See EDPS Accountability on the ground Part 1: Records, Registers and when to do DPIAs (in particular p. 11).*

	Design ☐ DPIA ☐ Active role: yes ☐ no ☐ If yes: written advice ☐ oral advice, participation in meetings ☐
External Contractors (processors)	***Was the tool developed internally or did your EUI recourse to external contractors (processors)?***
	Yes ☐ No ☐
	Details on the contract (name, role, DP clauses)
	Name and country of the contractor:
	Role:
	Data protection clauses: Yes ☐ No ☐
Duration	***Is the processing operation still ongoing?***
	Yes ☐ No ☐
	Did your EUI specify a time limit as to the processing operation or a periodic review of the necessity to go on with the processing
	Yes ☐ No ☐
	Retention duration or recurrence of the review
	- Retention: - Recurrence of review:

2.2.2. **Tool No 2**

same table

2.3. Did your EUI implement any **<u>modifications</u> to existing tools** in order to enable for a remote, as well as enhanced/more intensive use?

Yes		No	

Please use a separate table for each tool.

2.3.1. **Tool No 1**

Description	***Type and name of the tool***
	Related processing operation, intended use
	Meetings in general ☐ Selection/evaluation procedures ☐ Other:
	Nature of the change
	Increased number of users ☐ Remote access features ☐ Modification of IT security policy ☐ Update of existing DP statement(s) ☐ Policy on own bring your own device ☐ Other:
DPO Involvement	***Was the DPO involved in the modification of the tool?***
	Yes ☐ No ☐
	If yes, at which stage (design phase, DPIA, …), active or passive role (information), oral/written advice?
	Design ☐ DPIA ☐ Active role: yes ☐ no ☐ If yes: written advice ☐ oral advice, participation in meetings ☐

External Contractors **(processors)**	***Does your EUI recourse to external contractors (processors) for developing/modifying the tool?***
	Yes ☐ No ☐
	Details on the contract (name, role, DP clauses)
	Name and country of the contractor:
	Role:
	Data protection clauses: Yes ☐ No ☐

2.3.2. **Tool No 2**

same table

3.

New processing operations implemented by EUIs in charge of public health related tasks to fight Covid-19, as part of its core business activities

3.1. Did your EUI implement new processing operations aiming to respond to the Covid-19 pandemic, as part of its core business?

Yes		No	

Please use a separate table for each processing operation.

3.2. For **<u>each</u>** of the processing operations implemented by your EUI, please provide the following information:

3.2.1. **Name of the processing operation**

Description	***Purpose(s)***
	Legal basis
	Indicate a precise legal basis under Art. 5 or 10 of the Regulation: *If you rely on Art. 5(1)(b) or 10(2)(b) or (i), please indicate the relevant EU law:*
	Provide a link to the publicly available record of the processing[18], if any
	Link to the publicly available record: No publicly available record ☐ No record ☐
	Categories of individuals targeted

[18] *See Article 31 of Regulation 2018/1725.*

	Special categories of data
	Racial or ethnic origin ☐ Political opinions ☐ Religious or philosophical beliefs ☐ Trade union membership ☐ Genetic data ☐ Biometric data for the purpose of uniquely identifying a natural person ☐ Data concerning health ☐ Data concerning sex life or sexual orientation ☐
	Automated or manual
	Automated ☐ Manual ☐
	Mandatory or optional for individuals concerned
	Mandatory ☐ Optional ☐
	Recipient(s)
DPIA	***Did your EUI conduct a DPIA[19]?***
	Yes ☐ No ☐
	List the criteria triggering Article 39 of the Regulation, outcome of the DPIA
	- Criteria: - Outcome, i.e. need for prior consultation

[19] *Article 39 of the Regulation. See EDPS Accountability on the ground Part II: DPIAs and Prior Consultations.*

	Yes ☐ No ☐
	Was the DPIA initiated following a threshold assessment (assessment of the risks to determine whether a DPIA is needed)[20]?
	Yes ☐ No ☐
	If no, what was the trigger for the DPIA (management **decision, …)? *Please explain.***
Information of data Subjects	***Did your EUI inform data subjects about the new processing operation?***
	Yes ☐ No ☐
	Details on how the information was provided (format and means of communication)
	Data protection statement**:** Yes ☐ No ☐ If yes, explain how the DP statement was made available to data subjects:
DPO Involvement	***Was the DPO involved in the design or implementation of the processing?***
	Yes ☐ No ☐
	***If yes, at which stage (design phase, DPIA, …), active or passive role (information), oral/written advice*.**
	Design ☐ DPIA ☐ Active role: yes ☐ no ☐ If yes: written advice ☐

[20] *See EDPS Accountability on the ground Part 1: Records, Registers and when to do DPIAs (in particular p. 11).*

	oral advice, participation in meetings ☐
External Contractors **(processors)**	***Does the processing involve the recourse to external contractors (processors)?***
	Yes ☐ No ☐
	Details on the contract (name, role, DP clauses)
	Name and country of the contractor:
	Role:
	Data protection clauses: Yes ☐ No ☐
Duration	***Is the processing operation still ongoing?***
	Yes ☐ No ☐
	Did your EUI specify a time limit as to the processing operation or a periodic review of the necessity to go on with the processing?
	Yes ☐ No ☐
	Retention duration or recurrence of the review
	- Retention: - Recurrence of review:

3.2.2. **Name of the processing operation**

same table

3.2.3. **Name of the processing operation**

same table

4.

Any Other Business?

Are there any other points you wish to bring to the attention of the EDPS in the context of Covid-19 related processing that are not covered by this survey?