

INDICATIVE LIST OF THE TYPES OF DATA PROCESSING THAT DO NOT REQUIRE A DATA PROTECTION IMPACT ASSESSMENT UNDER ART 35.5 GDPR.

Data Protection Impact Assessments (hereinafter DPIA) are regulated under Section 3 of Chapter IV ('Data controller and data processor') of General Regulation (EU) 2016/679 on Data Protection of the European Parliament and of the Council of 27 April (hereinafter GDPR).

In order to assist controllers in identifying the kinds of data-processing that do not require a DPIA, the GDPR provides that supervisory authorities may publish a list setting out what kind of processing does not require a DPIA. This list shall be notified to the European Data Protection Board (EDPB).

Notification to the Board of the list setting out the data processing for which there is no requirement to draw up a prior DPIA is merely for information purposes, although this does not preclude the Board, in the relevant circumstances, from being able to approve an intervention or decision in this regard.

The Spanish Data Protection Agency (hereinafter AEPD) notifies this list to the Board as a common representative of the Data Protection Authorities of Spain.

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A DPIA is a costly process and the principle of economy of means must be applied. As such, an initial qualitative analysis may conclude that no DPIA is necessary. In this case, such a decision must have enough grounds.

Obviously, this obligation does not extend to the processing of data that are not of a personal nature. Although, as a precautionary measure in order to protect the rights of citizens, the concept of 'personal data' established in the GDPR must be considered extensively, i.e. the default assumption should be that the data being processed are of a personal nature, and it should not be assumed *a priori* that the data being processed do not fall into this category.

The following list establishes the forms of data-processing that are exempt from carrying out a DPIA without prejudice to any other obligation stipulated by GDPR and, consequently, this does not mean that they are exempt from the duties laid down in the GDPR framework that governs personal data-processing.

This list is based on the document WP 248¹ and complements its criteria in order to help data controllers to understand data processing that do not require DPIA.

¹ Guidelines on Data Protection Impact Assessment (DPIA) and determining whether processing is "likely to result in a high risk" for the purposes of Regulation 2016/679 (Revised and Adopted on 4 October 2017)

1. Processing carried out strictly under the guidelines established or authorized previously, by way of circulars or decisions issued by supervisory bodies, specially the AEPD, whenever the processing has not changed since it was authorized;
2. Processing carried out strictly under the guidelines of codes of conduct approved by the Commission or by supervisory bodies, specially the AEPD, whenever a full DPIA has already been carried out within a context of a validated code of conduct, and is implemented with the measures and safeguards defined in the DPIA;
3. Processing that is necessary in order to comply with a legal requirement or to complete a mission being carried out in the public interest or in the exercise of official authority vested in the controller, provided that there is no duty to carry out a DPIA within the legal mandate itself, whenever a full DPIA has already been performed;
4. Processing carried out by self-employed personnel who work on an individual basis in the exercise of their professional duties, specially physicians, healthcare professionals, or lawyers, notwithstanding that it may be required when the processing carried out complies, in a significant way, with two or more criteria established in the list of types of data processing that require impact evaluation relative to data protection published by the AEPD;
5. Processing carried out in relation to the internal administration of personnel working at SMEs, in order to face processing operations mandatory by law for the purposes of accounting, human resources management, payroll management, social security, and safety in the workplace, but never in relation to customer data;
6. Processing carried out by owners' associations and sub-associations in multi-occupancy properties, according as these are defined at article 2 (a, b, and d) of Law 49/1960 on Horizontal Property;
7. Processing carried out by professional colleges and non-profit associations in connection with the data of their associates members and donors of the data controllers listed therein concerning the management of their personal data, and in the performance of their tasks, provided that the processing does not extend to sensitive data such as those referred to in article 9.1 of the GDPR and that article 9.2(d) does not apply;