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# Data Protection by Design and by Default & Data Protection Impact Assessment

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DATA PRIVACY DAY - 28-01-2020



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# The Risk Based Approach in the GDPR

## Article 25. Data protection by design and by default

« 1. Taking into account the state of the art, the cost of implementation and the nature, scope, **context** and purposes of processing as well as the **risks** of varying likelihood and severity for rights and freedoms of natural persons posed by the processing, the controller shall, both at the time of the determination of the means for processing and at the time of the processing itself, implement appropriate technical and organisational measures...

## Article 32. Security of processing

« 1. Taking into account the state of the art, the costs of implementation and the nature, scope, **context** and purposes of processing as well as the **risk** of varying likelihood and severity for the rights and freedoms of natural persons, the controller and the processor shall implement appropriate technical and organisational measures to ensure a level of security appropriate to the risk...

## Article 35. Data protection impact assessment

« 1. Where a type of processing in particular using new technologies, and taking into account the nature, scope, **context** and purposes of the processing, is likely to result in a **high risk** to the rights and freedoms of natural persons, the controller shall, prior to the processing, carry out an assessment of the impact of the envisaged processing operations on the protection of personal data. A single assessment may address a set of similar processing operations that present similar high risks.

# The Risk Based Approach in the GDPR – *Data Controller obligations*



## Main obligations



**Security of processing:  
Appropriate technical and  
organisational measures**  
*(art. 32)*



**Data Protection by  
Design and by Default**  
*(art. 25)*



**Data Protection  
Impact Assessment**  
*(art. 35)*



# Article 25: Data Protection by Design and by Default

Take into account **data protection principles** from the early stages of a project



Ensure the security of the data throughout their life cycle  
(art. 32)



Implement **pseudonymisation** and **encryption of data** if necessary



**Restrict technically and by default** data processing



Facilitate the **effective exercise of the rights** of the data subjects (ex: online support services)



# Article 35: Data Protection Impact Assessment



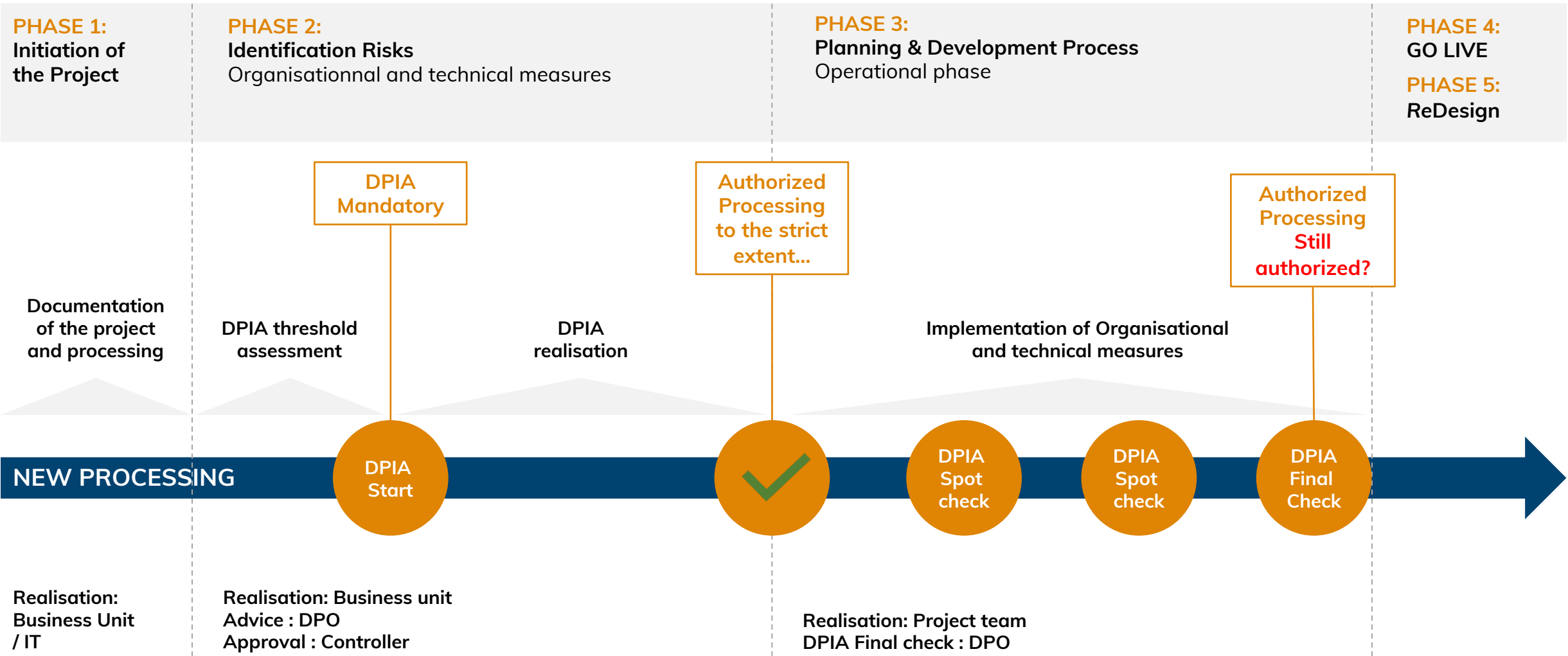
Source: ICO



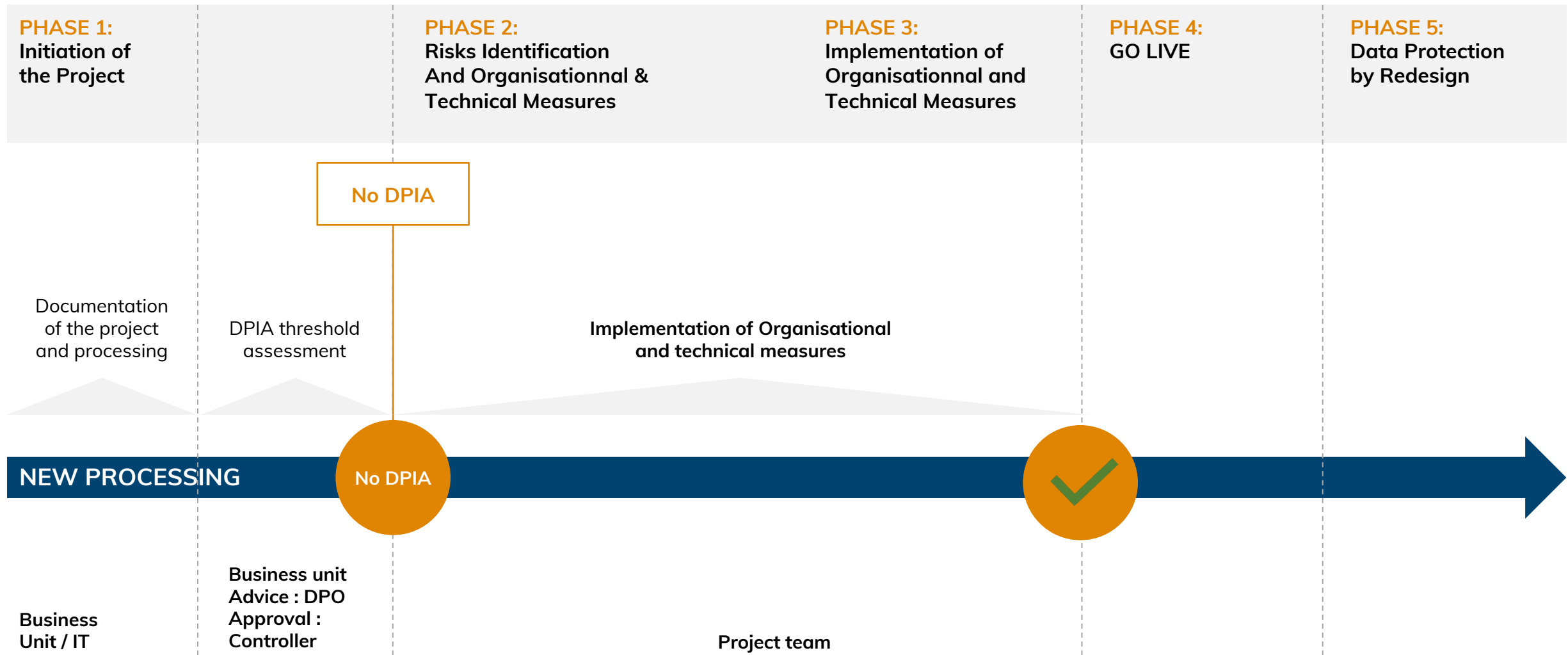
# Goal

- Data Protection Impact Assessment
  - A process for building and demonstrating compliance with the GDPR
  - Identify high risks
  - Identify appropriate measures to mitigate the risks at an acceptable level
  - Iterative process: each of the stages is revisited multiple times before the DPIA can be completed
  - Approbation BEFORE the processing itself
- Data Protection by Design and by Default
  - If DPIA : Implement those measures throughout the entire data life cycle
  - If no DPIA : Identify risks and appropriate security measures
  - At the time of the determination of the means for processing and at the time of the processing itself

# DPIA Process



# Data Protection by Design and by Default process



# Conclusion

- DPIA mandatory = high level of security

➡ **YES**

- DPIA not mandatory = Data Protection by Design and by Default = standard level of security

➡ **NO**

**BUT**

**Appropriate technical and organisational measures (which could be the same as if a DPIA was mandatory)**

4th Edition!

# Luxembourg Data Protection Day

# Save the date

May 19<sup>th</sup> 2020  
@Chamber of Commerce

[www.ldpd.lu](http://www.ldpd.lu)

\*Free Event





## GET IN TOUCH



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