



# Updates from the CNPD



**Data Privacy Day 2022**

Belval,  
28 January 2022

Marc Lemmer, Commissioner

# Agenda

1. Introduction
2. Key figures
3. Highlights 2021
4. Upcoming challenges

# 1. Introduction



# What has changed since May 2018?

- In general
  - Major shift in how people and businesses see privacy
  - GDPR has helped move data protection rights into the spotlight
  - Introduction of the consistency mechanism
  - Cooperation in cross-border cases





# What has changed since May 2018?

- The CNPD
  - has the role to enforce the GDPR and verify its compliance within the national territory
  - got the support by the government to hire diverse workforce over the last years and set up an adequate work infrastructure
  - has the objective to increase the public's trust and confidence in how data is used and made available.

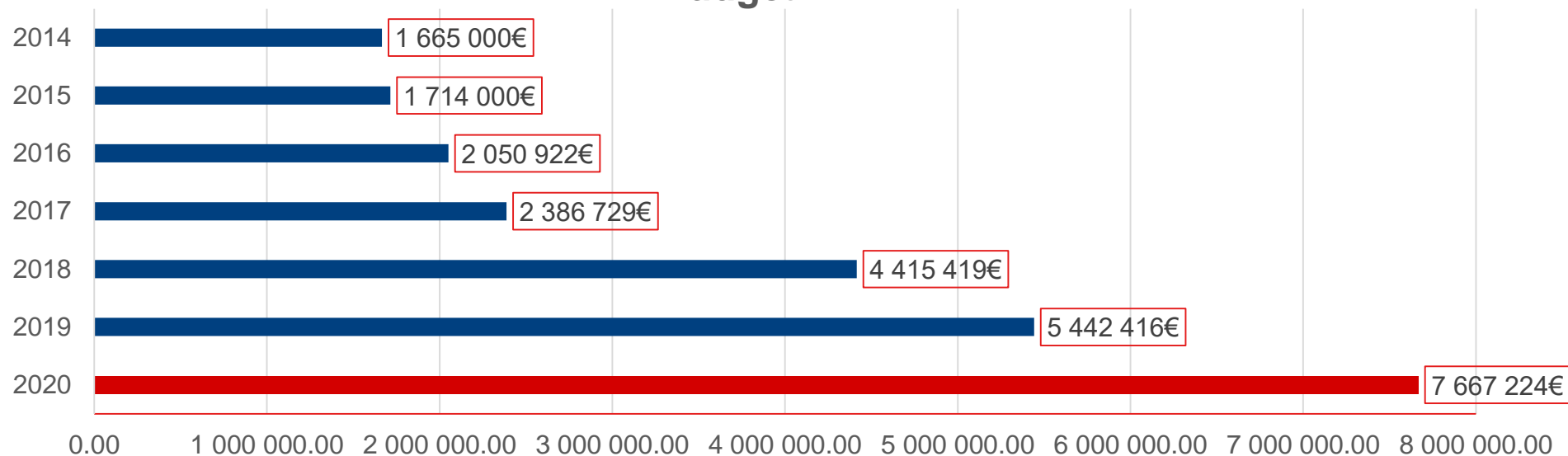


## 2. Key figures

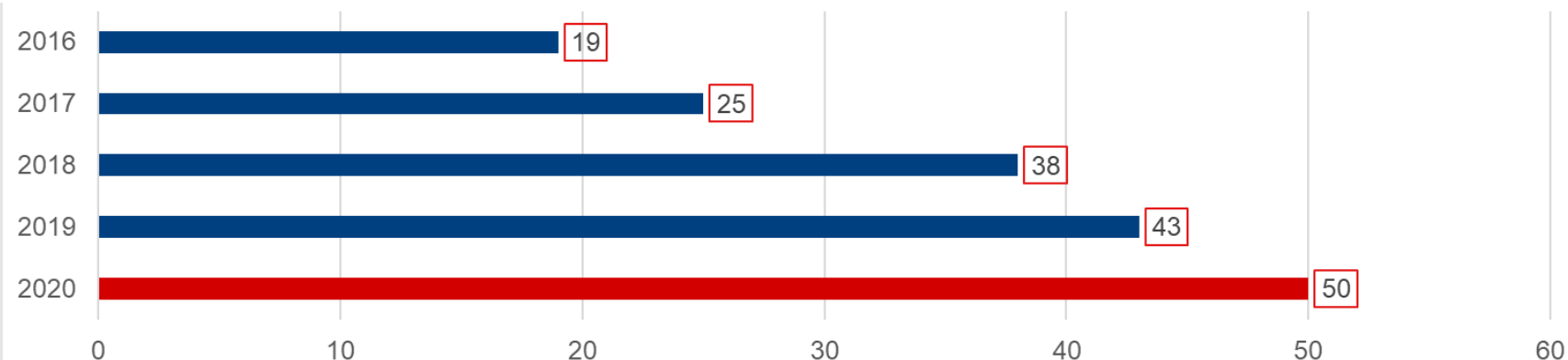


# Ressources

## Budget

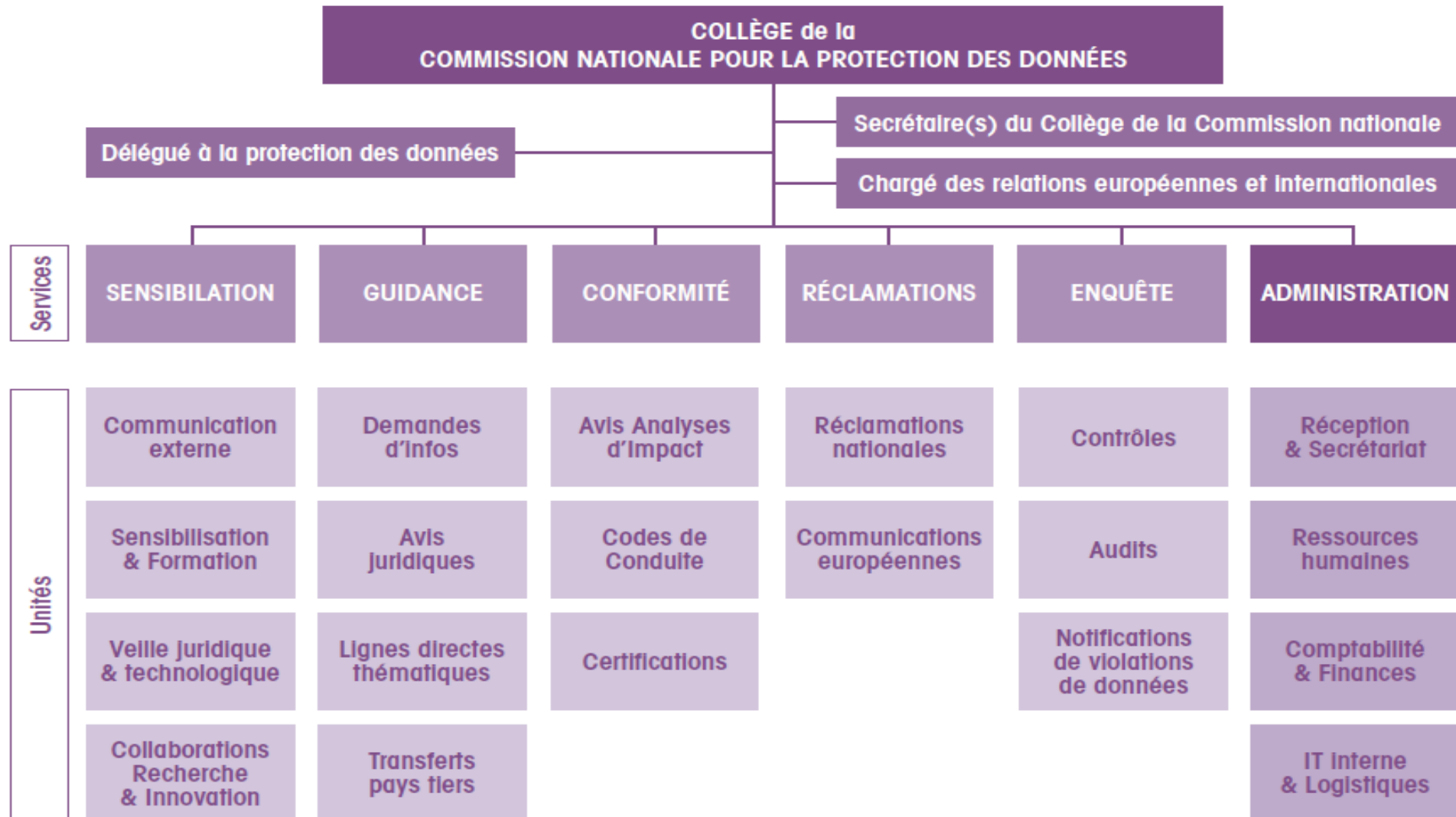


## Ressources humaines



- Staff: 52
- Average age: 37,4
- Average seniority: 4,5 years
- Gender balance: 51% M / 49% F
- 7 nationalities
- Expertise: lawyers, engineers, IT experts, auditors

# Organigramme





# Activities (figures from 2020)

## SENSIBILISATION, GUIDANCE ET CONSEIL



24

AVIS

contre 16 en 2019



655

DEMANDES DE  
RENSEIGNEMENT  
PAR ÉCRIT

contre 708 en 2019



2

NOUVELLES  
GUIDANCES

contre 3 en 2019



17

FORMATIONS ET  
CONFÉRENCES

contre 28 en 2019

relatifs à des projets ou propositions de loi ou mesures réglementaires, dont notamment des avis sur les lois relatives :

- à la lutte contre la COVID-19 ;
- au système de vidéosurveillance à des fins policières « Visupol » ;
- au registre des fiduciaires et des trusts.

Les 3 principales catégories de demandes concernent :

1. la pandémie COVID-19 (traçage des personnes, prise de température, télétravail, homeschooling, etc.) ;
2. la surveillance sur le lieu du travail ;
3. le droit des personnes concernées (droit d'accès, droit d'effacement, etc.).

- Le traitement des données personnelles dans le cadre de l'épidémie du coronavirus ;
- Lignes directrices sur les conséquences du Brexit en matière de transferts internationaux de données (mise à jour).

Nombre d'événements de sensibilisation que la CNPD a organisé ou dans lesquels elle est intervenue comme orateur.

## CONFORMITÉ ET CONTRÔLE



485

RÉCLAMATIONS

contre 625 en 2019

Raisons principales :

1. Demande d'effacement ou de rectification non respectée (26 %) ;
2. Non-respect du droit d'accès (23 %) ;
3. Droit d'opposition et prospection (11 %).



379

NOTIFICATIONS DE VIOLATIONS DE DONNÉES

contre 354 en 2019

Cause principale : erreur humaine (65 %)

Nature des incidents :

1. données personnelles envoyées au mauvais destinataire (33 %) ;
2. piratage, hacking (15 %) ;
3. divulgation des données personnelles à la mauvaise personne (12 %).

Plus de la moitié des incidents sont détectés dans les 5 jours de leur survenance.



6

AUDITS OUVERTS

sur le thème de la « transparence » dans le secteur du commerce électronique.

# Investigations

## ■ On-site inspection campaigns

### — Videosurveillance and Geolocation

- 20 organisations
- Investigations finalized in 2020; all CDG files transferred to restricted panel for decision
- 18 decisions published

### — **COVID-19** (Collection of personnel data via questionnaires; Body temperature checks)

- 20 organisations
- campaign launched in Q4 2020
- ongoing

## ■ Audits campaigns

### — DPO

- 25 organisations
- campaign finalized, all decisions published

### — **Transparency in e-services:**

- 6 organisations
- campaign launched Q3 2020
- ongoing

# Supervision of law enforcement authorities processing personal data (figures from 2020)

- 22 requests for information
  - 50% regarding rights of data subjects
- 4 opinions
  - video surveillance of public spaces for public safety purposes (VISUPOL),
  - the creation of the National Security Authority
  - the automated control and sanctioning system (red light radars)
- 11 complaints
- 2 data breach notifications



# European collaboration 2021



- 15 plenary meetings
- 200 working group meetings
- 9 new guidelines
- 4 projects under CNPD leadership (rapporteur)
  - Letter to ENISA with the recommendations concerning the « EU cybersecurity certification Cloud Scheme » under public consultation;
  - Guidelines on voice assistants (Publication of the version for public release and after the final version after the public consultation);
  - Version for public consultation of the Guidance on the Analysis of Certification Criteria (Addendum to Guidelines 1/2018 on Certification and Identification of Certification Criteria);
  - Updated procedure for adopting certification criteria.





# 3. Highlights 2021



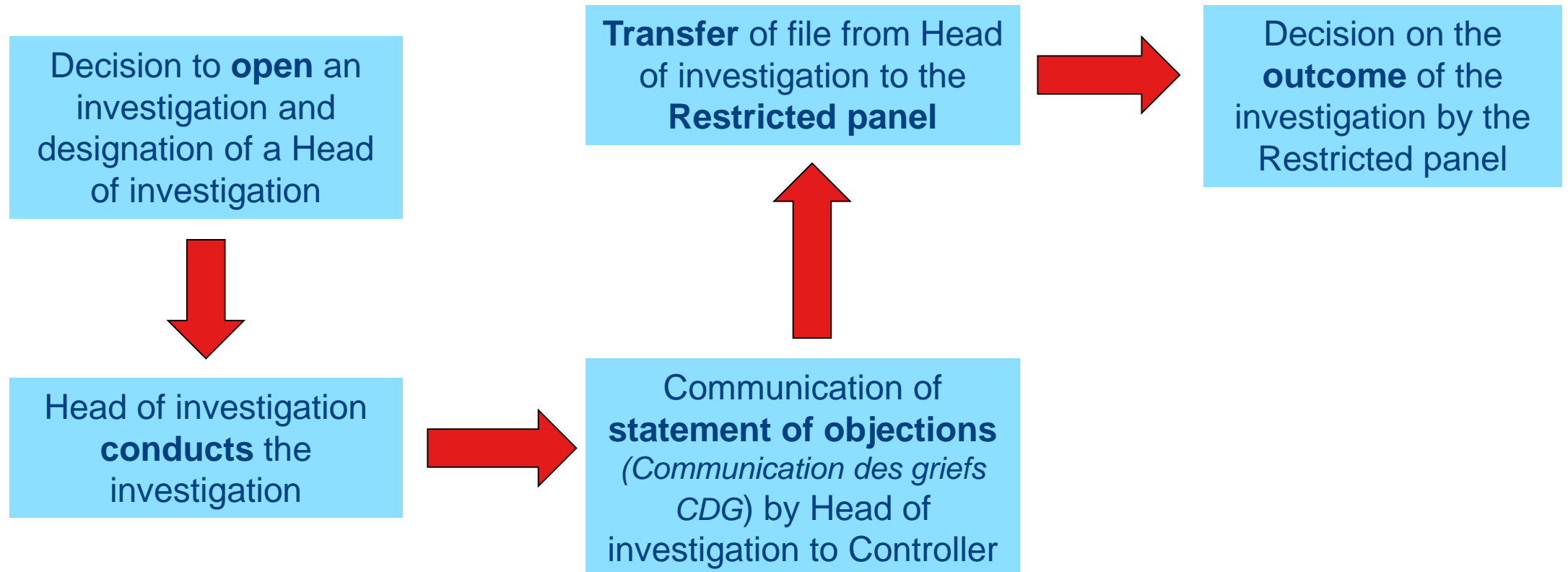
# Enforcement





# Decisions on the outcome of investigations

- Main steps



# Decisions on the outcome of investigations by the CNPD restricted panel



- 49 decisions **in total**
  - 12 closed in the **absence** of any deficiencies identified
  - 12 with **corrective measures**
  - 25 with **corrective measures and fine**
- **National** decisions
  - 48 decisions
  - 319.500 € of total fines
- **European** cooperation decisions
  - 1 decision with a fine of 746.000.000 €
- Decisions regarding **public entities**
  - Public institutions: 4
  - Communes: 2
  - State sector: 4
- Decisions regarding **private entities**
  - Insurance: 6
  - Banking: 5
  - Health: 4
  - Service, manufacturing, commerce: 24



# EU complaint handling

- **161 cross-border complaints** were submitted in 2020 to the CNPD in its role as **lead supervisory authority (LSA)**
- Role of the LSA
  - ensure **uniform application** where the controller is established in more than one Member State or where it affects individuals in more than one Member State
  - **sole competence** for the controller's processing activities in the Union and will be the sole interlocutor with that controller

# Guidelines on geolocation of vehicles made available to employees for their work

- Published on 15/04/2021
- Goal
- Definition
- Risks
- Legal framework
- Main principles and obligations
- Transparency
- Necessity and proportionality
- Data minimisation
- DPIA
- Data security and confidentiality





# Guidelines on **cookies** and other trackers

- Published on 20/10/2021
- Goal
- Definition
- Examples
- Risks
- Legal Context (ePrivacy Directive, GDPR)
- Good/Bad practices







# COVID-19

- Answering information requests
- Opinions successive Covid-19 laws
- Recommendations issued
- Awareness rising and communication
- On-site inspection campaign
- European cooperation and international collaboration (EDPB, GPA)



# Schrems II

- State of play at end 2021:
  - Adoption by the European Commission of a new set of clauses for the transfer of persona data to third countries
  - Publication of the EDPB updated recommendations 01/2020 on measures that supplement transfer tools
  - Under preparation: FAQs regarding the impact of the Schrems II ruling on international data transfers.





## 4. Upcoming challenges



# New conformity instruments

## ■ Certification

- GDPR-CARPA certification scheme
  - GDPR-Certified Assurance Report based on Processing Activities
- CNPD is lead-rapporteur at the EDPB
  - Adoption of certification criteria to be expected Q1 2022
  - Adoption of EU-level data protection seals
- First requests for accreditation as Certification body under way



## ■ Codes of conduct

- First request for approval under way from a professional sector association





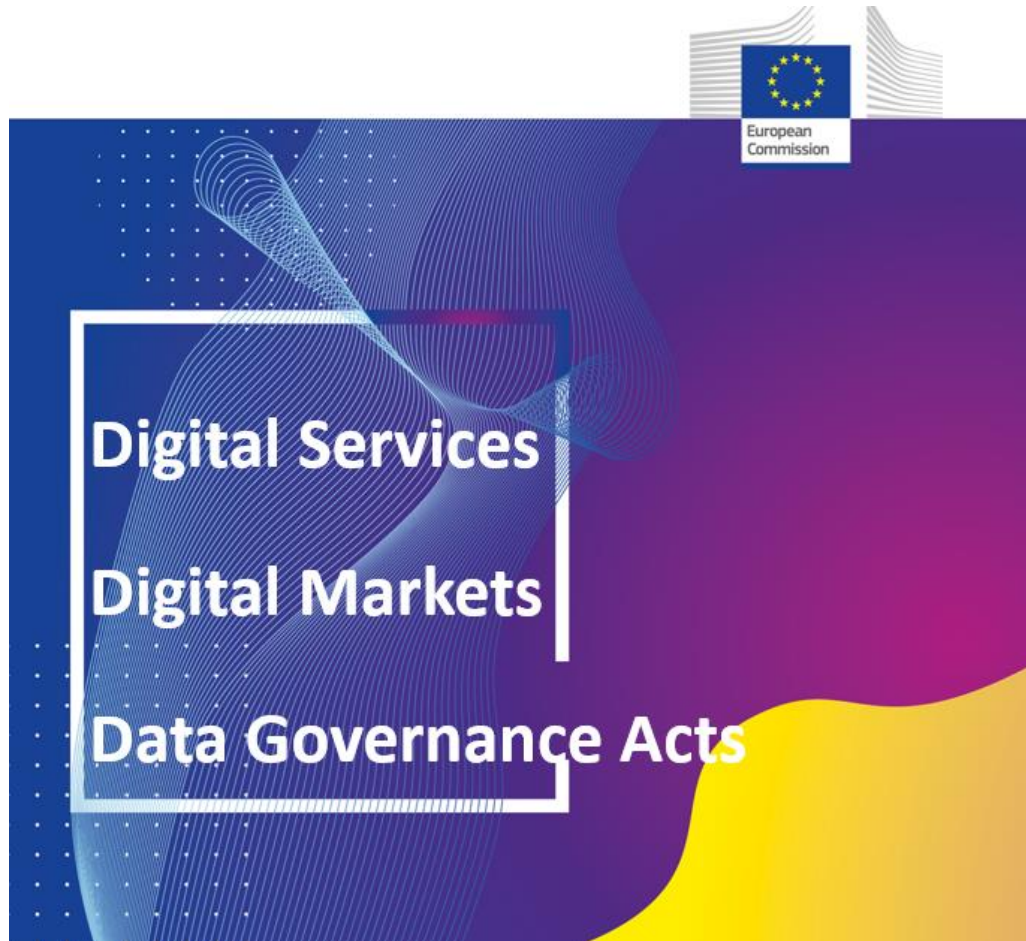
# European Digital Single Market

## Upcoming new EU regulatory frameworks



# European Digital Single Market

## Upcoming new EU regulatory frameworks



# Data Governance Act (DGA)

## EDPB/EDPS joint opinion (10.3.2021)



- Significant number of serious concerns raised
  - inconsistencies with GDPR but also Open Data Directives;
  - blurring of distinction between personal and non-personal data;
  - governance/tasks /powers of competent bodies and authorities to be designated; fairness, transparency, ...
- Potential new roles for DPAs
  - Notification and supervision of data sharing service providers
  - Registration and supervision of altruistic organisations collecting and processing data
  - Participation in “European Data Innovation Board”



# Artificial Intelligence Act (AIA)

## EC Proposal (21.4.2021)



### ■ EDPB/EDPS joint opinion (18/6/2021)

#### — Many open questions !

- Exclusion of international law enforcement cooperation
- Risked based approach to be clarified and to be aligned with GDPR
- social scoring and remote biometric identification of individuals in publicly accessible spaces
- Independency and autonomy of EAIB
- Crucial need for harmonized enforcement
- Scope, objective, legal basis of sandboxes
- Relationship between certifications issued under AIR regulation and GDPR certifications/seals/marks

#### — Potential new roles for DPAs

- Designated national supervisory authorities
- independent authorities to enforce AI regulation
- Single Point of Contacts for individuals and companies
- Regulatory sandboxes
- European Artificial Intelligence Board





# Thank you for your attention!

## Commission nationale pour la protection des données

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**Illustrative examples** Attention : the answers to the questions depend on the context – the slides have been commented during the presentation to illustrate the reasoning based on a specific case. A case-by-case analysis may lead to other answers. The data controller must respect the obligations imposed by the GDPR and must be able to demonstrate his compliance.