EDPS

COVID-19 AND DATA PROTECTION

Supervision and Enforcement Unit
European Data Protection Supervisor
08/05/2020

The EU context

- **EDPS blogpost**: "Carrying the torch in times of darkness" (April 30)

- **EDPB statement** on the processing of personal data in the context of the Covid-19 outbreak (March 19)
  - GDPR does not hinder the fight against the pandemic and applies to context such as Covid-19 outbreak
  - GDPR actually contributes to an efficient response

- **EDPS call** for a pan-European approach against the pandemic (April 6)

The EU context

- **<u>Use of location data for pandemic spread mapping</u>**
  - <u>EDPS Comments</u> on the European Commission's plan to access telecommunications data from telecommunications service providers to monitor the COVID-19 spread (March 25).
  - <u>EDPB GL 04/2020</u> on the use of location data and contact tracing tools in the context of the Covid-19 outbreak (April 21)

The EU context

- Contact tracing apps
  - COM Recommendation towards a common Union toolbox for the use of technology and data to combat and exit from the Covid-19 crisis of 8 April + Guidance on contact tracing apps.
  - EDPB Letter concerning COM Draft Guidance (April 14)
  - EDPB Guidelines 04/2020 (April 21)

The EU context

- **Scientific research**
  - EDPB GL 03/2020 on the processing of data concerning health for the purpose of scientific research in the context of the COVID-19 outbreak (April 21)
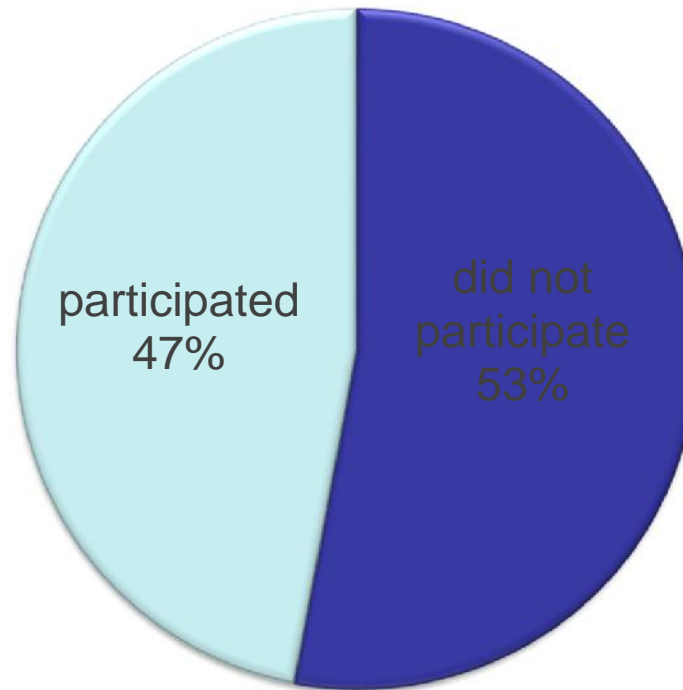
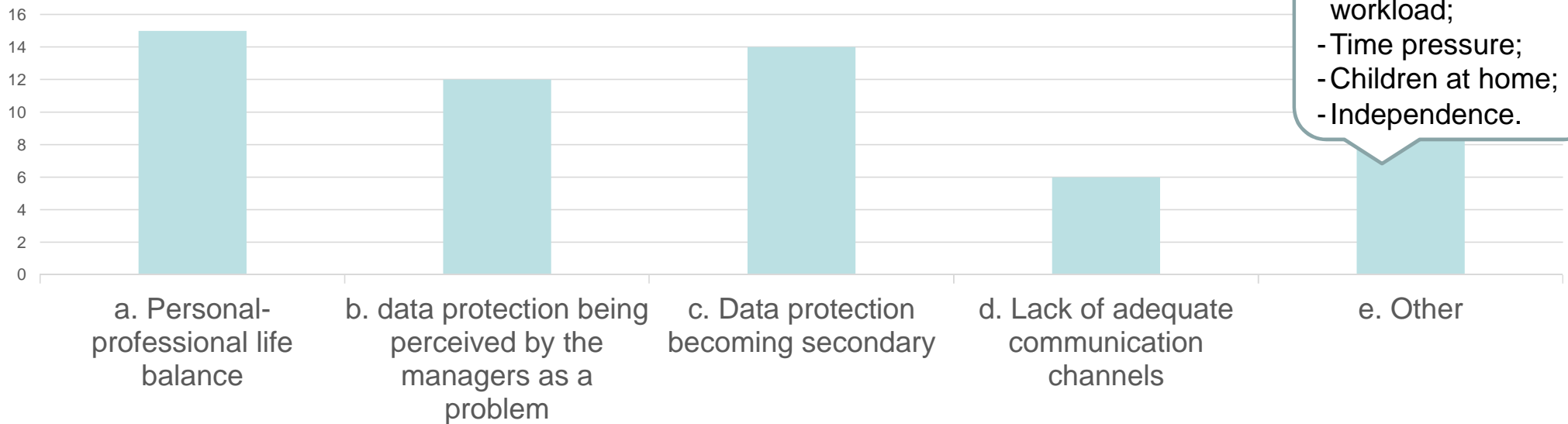**What are the DPOs' biggest challenges during this unprecedented pandemic crisis?**
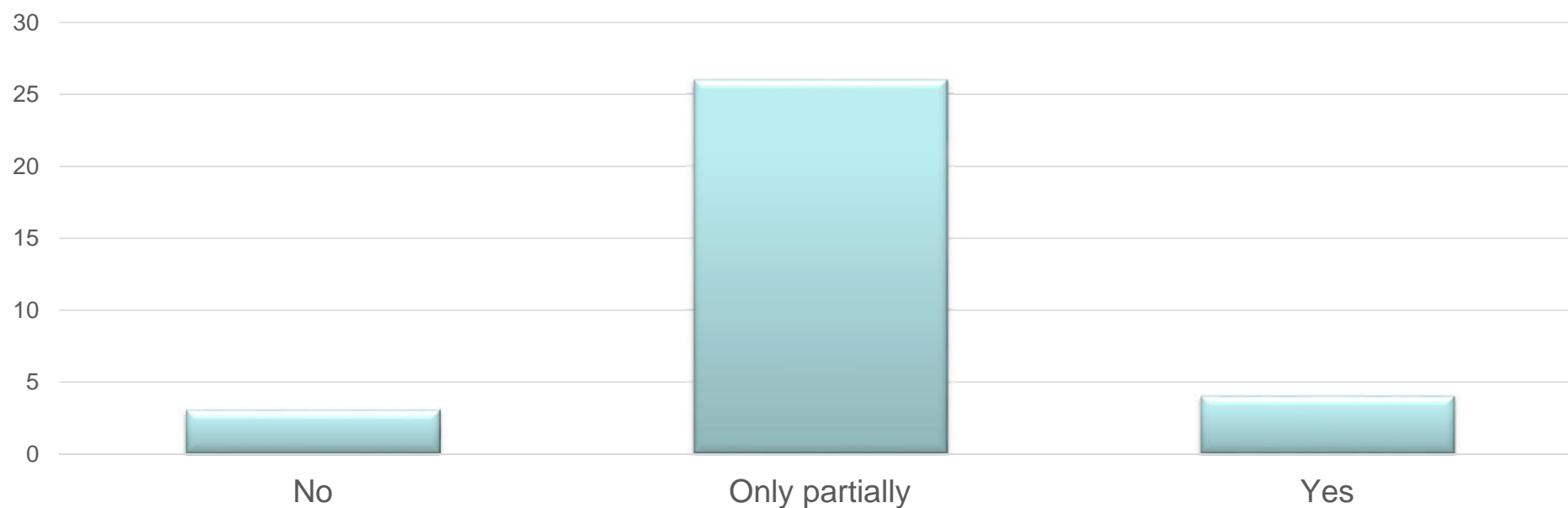
DPOs' participation in the survey

Results of the survey on COVID-19 challenges

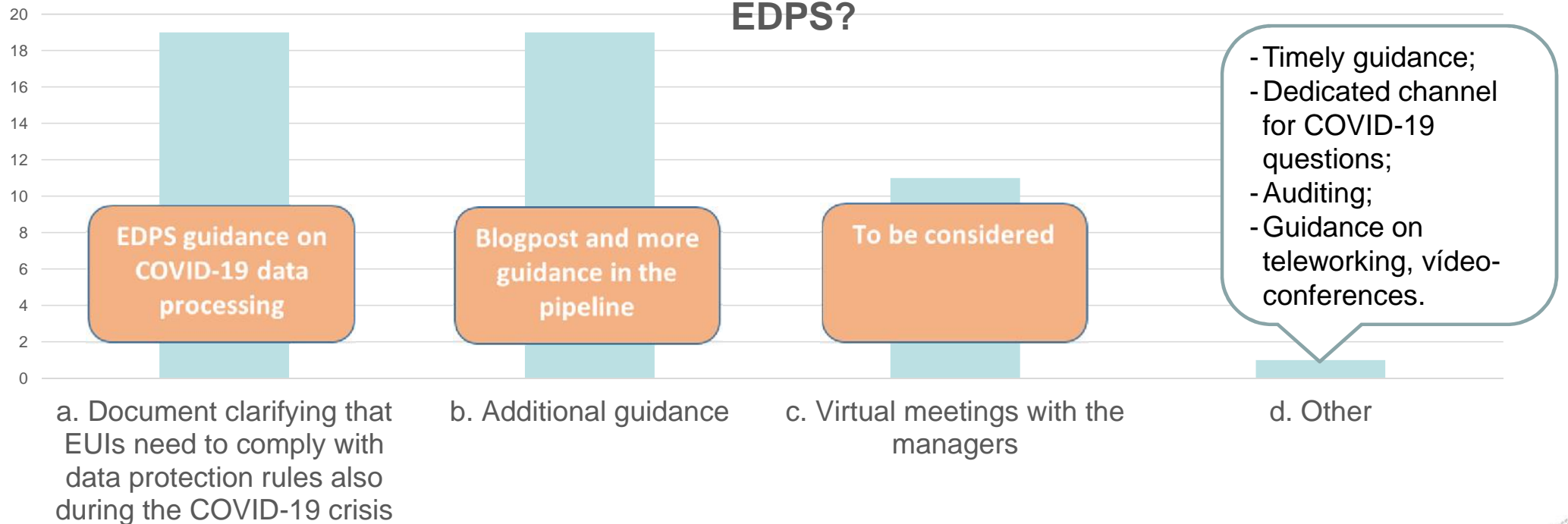**1. What are the biggest challenges for you as a DPO during the COVID-19 crisis?**

Results of the survey on COVID-19 challenges

2. Did you find a solution to those challenges?

3. Which additional support would you like to receive from the EDPS?

- Timely guidance;
- Dedicated channel for COVID-19 questions;
- Auditing;
- Guidance on teleworking, vídeo-conferences.

EDPS guidance on COVID-19 data processing

Blogpost and more guidance in the pipeline

To be considered

a. Document clarifying that EUIs need to comply with data protection rules also during the COVID-19 crisis

b. Additional guidance

c. Virtual meetings with the managers

d. Other

New trends in EUIs

- Many organisational adaptations in EUIs and more to come:
  - Lockdown/confinement: close to 100% telework, videoconferencing...
  - reopening: preventive measures, ensuring health and safety in the workplace...
  - "new normal": more to come...
- NB: this is all from the "EUI as employer" perspective
- Guidance document to come very soon!

Tips to have in mind I

- Telework and videoconferencing tools
  - controller/processor relationship
  - monitoring by provider and/or employer
  - transfers?
  - security
  - decision-making processes: beware of lock-in!
- Recording video calls?
  - same approach as for recording or streaming in-person meetings: (most often) consent

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Tips to have in mind II

- DS requests for access etc.
  - possible issues on remote access to systems where information is held
  - deadlines still apply; if you can't make them, inform people as soon as possible, explain reasons and document
- Leave requests
  - imposing restrictions on travel during leave is not the employer's role (unlike for duty travel)

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Tips to have in mind III

- Temperature checks at entrance?
  - EUIs are employers here, not border control!
  - Role of seat agreement and privileges and immunities
  - Check the approach in your host country; if under national rules, employers are...
    - ... obliged to check: can check (would be difficult to argue that EUI privileges and immunities get you out)
    - ... not required to check: would require autonomous ground for lawfulness under Art. 10 of the Reg. (would need to find it in Union law)

Tips to have in mind IV

- Role of medical services
  - can give advice on preventive measures
  - <u>not</u> primary care provider, do not interfere with health privacy

- Contact tracing / exposure notification?
  - <u>not for EUIs as employers</u>, but for public health authorities. You can provide info if requested, but don't try to take over their role.

- Health/immunity certificates?
  - many issues: kinds of tests and their accuracy, scientific uncertainty => <u>WHO scientific brief</u>
  - Advise against, even more so <u>as employers</u>

Thank you for your attention!

For more information:

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