



EUROPEAN COMMISSION

DATA PROTECTION IMPACT ASSESSMENT TEMPLATE

TESTING PHASE GUIDELINES AND REQUIREMENTS

1. INTRODUCTION

In October 10, 2014, the European Commission issued a Recommendation (2014/724/EU) providing guidance to Member States on measures to be taken for the positive and wide ranging dissemination, recognition and use of the Data Protection Impact Assessment Template for Smart Grid and Smart Metering Systems (hereinafter referred to as 'DPIA Template'), to help ensure the respect of fundamental rights related to the protection of personal data and privacy in the deployment of smart grid applications and systems and smart metering roll-out.

To ensure the highest quality of the DPIA Template, the Recommendation foresees a test phase during which stakeholders are encouraged to apply the DPIA Template to real use-cases and provide their feedback to the Commission.

This document seeks to provide a minimum set of guidelines and requirements on the modalities according to which the test and feedback reporting phases should be conducted by the involved parties in order to optimise their effectiveness.

2. SUBJECT OF THE TEST

The DPIA template must be applied on systems and processes in production operated by a *smart-grid operator*. The term smart-grid operator refers to a member of one (or more) of the following categories:

- Transmission System Operators
- Distribution System Operators
- Energy Generators (producers)
- Energy Market Suppliers
- Metering Operators
- Energy Service Companies

The use-case must be:

- (i.) real, i.e. integrated in the existing company infrastructures/services; and
- (ii.) sufficiently comprehensive in order to identify the difficulties an operator might face when running the DPIA template on his facilities.

This should ensure improvement of the quality of feedback provided.

The application of the DPIA template as a simulation or on a “dummy system” should be avoided as the results obtained in this case would be less significant.

3. DPIA TEST TEAM

As suggested in the DPIA Template¹, section 2.2.1, the DPIA team in charge of running the test should have a of strong understanding of the test use-case and should benefit from the following fields of expertise whenever available:

- Risk assessment;
- IT architecture
- System engineering;
- Information security;
- Privacy and data protection (under a technical and normative point of view);
- Legal;
- Organisational design;
- Project management.

The Data Protection Officer must be involved from an evaluation and operational point of view. Moreover, a person well aware of the user-side environment (where pertinent) should also be involved to be able to grasp the peculiarities end-user interfaces and interactions imply.

To cover specific gaps, the DPIA team should, when needed, involve third parties operating on the field, by mean of interviews.

The DPIA team should also systematically at least keep the Data Protection Authority of the Member State informed and consult this Authority whenever required.

4. DPIA TEST EXECUTION

The DPIA test must be executed following the steps specified in the DPIA template:

- Step 1 - Pre-assessment and criteria determining the need to conduct a DPIA;
- Step 2 - Initiation;
- Step 3 - Identification, characterisation and description of smart grid systems / applications processing personal data;
- Step 4 - Identification of relevant risks;
- Step 5 - Data protection risk assessment;
- Step 6 - Identification and recommendation of controls and residual risks;
- Step 7 - Documentation and drafting of the DPIA Report;
- Step 8 - Review and maintenance.

Each of the steps should be duly documented. For example, in step 3, the DPIA Team should identify and describe all the components and assets involved in the system, their relationships and the associated processes.

As already underlined, the aim of the test phase initiated by the Recommendation (2014/724/EU) is to assess where and how the DPIA template can be further improved. A

¹ https://ec.europa.eu/energy/sites/ener/files/documents/2014_dpia_smart_grids_forces.pdf

partial execution of the DPIA test exercise would provide less effective results and for that it is strongly suggested to rigorously run the DPIA fully from step 1 to step 8.

5. DPIA TEMPLATE FEEDBACK REPORTING

The reporting phase regarding the usability and usefulness of the DPIA is the most important phase of the entire test phase foreseen by the Recommendation. It will provide the Commission and the Smart Grid Task Force representatives a useful feedback for the improvement of the DPIA template. Moreover, it will allow all stakeholders to provide constructive suggestions in order to enhance its completeness and offer a mature and efficient assessment tool to the whole community.

To standardise the type of feedbacks, a reporting form has been prepared. The DPIA test team is strongly invited to use this form in order to provide the expected written feedback.

The form is composed of 3 main sheets:

1. **Company and DPIA Team details:** here the details related to the company running the test and the role and expertise of the persons which compose the team running the data protection assessment process should be specified. This information will help to understand the approach followed by the company while running the DPIA
2. **Use-Case and Assessment details:** in this section a short description of the system taken as use-case should be provided. Moreover, in the same sheet, a summary of the main findings of the analysis in terms of identified risks and mitigation actions can be provided. This sheet should help understand the difficulties encountered by the DPIA team while running the impact assessment and better interpret the feedback provided in the following sheet.
3. **DPIA Template feedback:** this is the most important section of the reporting form. The DPIA team should specify every type of feedback on the DPIA template. Feedbacks can be clustered in the following classes:
 - a. *Technical:* comments related to technical aspects (e.g. the DPIA team believes that the template presents a technical problem which might impact the final result of the assessment)
 - b. *Editorial issues:* problems related to editorial aspects (e.g. wording, terminology used, document organisation etc.)
 - c. *General:* anything else not covered by the previous two categories.

It is important to underline that the comments should be constructive; every comment asking for a modification must be followed by a *change proposal*, explaining how the identified issue could be fixed.

Based on the feedback provided in this reporting form, the DPIA team should provide the Commission (ENER-B3-DPIA-TEST-PHASE@ec.europa.eu) with a **short summary (500 words) of their main findings for publication.**

6. CONCLUDING REMARKS

As specified in the Recommendation (2014/724/EU), within two years of publication of this Recommendation in the Official Journal of the European Union, Member States should provide the Commission with an assessment report highlighting the relevant conclusions stemming from the test phase. Two years after the publication of this Recommendation in the Official Journal of the European Union, the Commission intends to assess the need for revision of the DPIA Template based on the test phase reports provided by Member States.

Under this light, the DPIA test phase is indeed an important activity which might have a policy impact, and should be run with the highest care and attention.