‘MOSTLY HARMLESS’

DATA BREACH NOTIFICATION UNDER REGULATION (EU) 1725/2018

DPO Meeting, Frankfurt 17 May 2019

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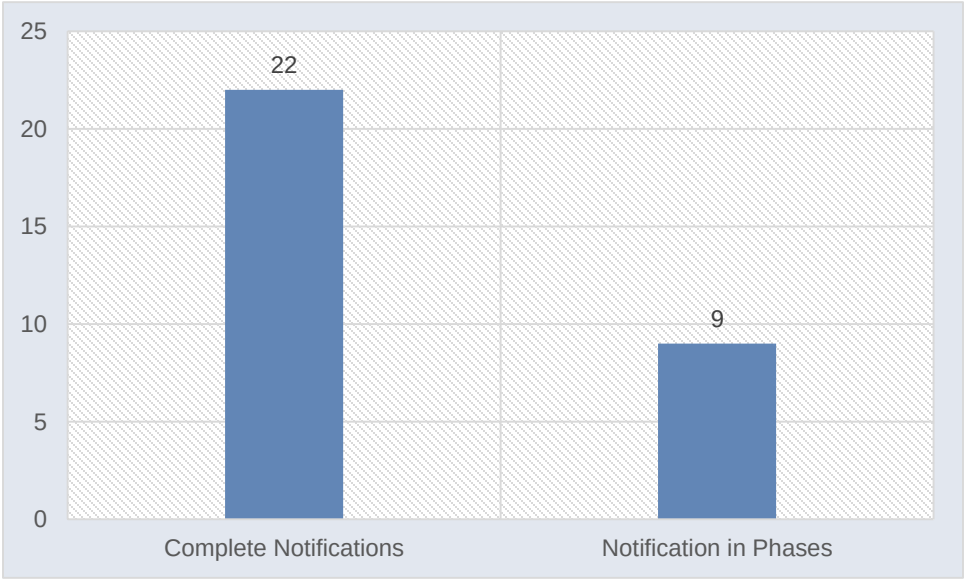
EDPS

DATA BREACH NOTIFICATION – STATE OF PLAY

- The EDPS received a total of **31** notifications from all sorts of EU Institutions and bodies (EUI).
- **3** personal data breach notifications concern incidents where special categories of data are involved (health data (2) and political opinions(1)).
- **6** notifications were received after the 72 hours threshold. In one case the processor delayed significantly to inform the processor in due time.
- The controller decided to notify the data subjects in **10** cases.

TYPE OF DBN



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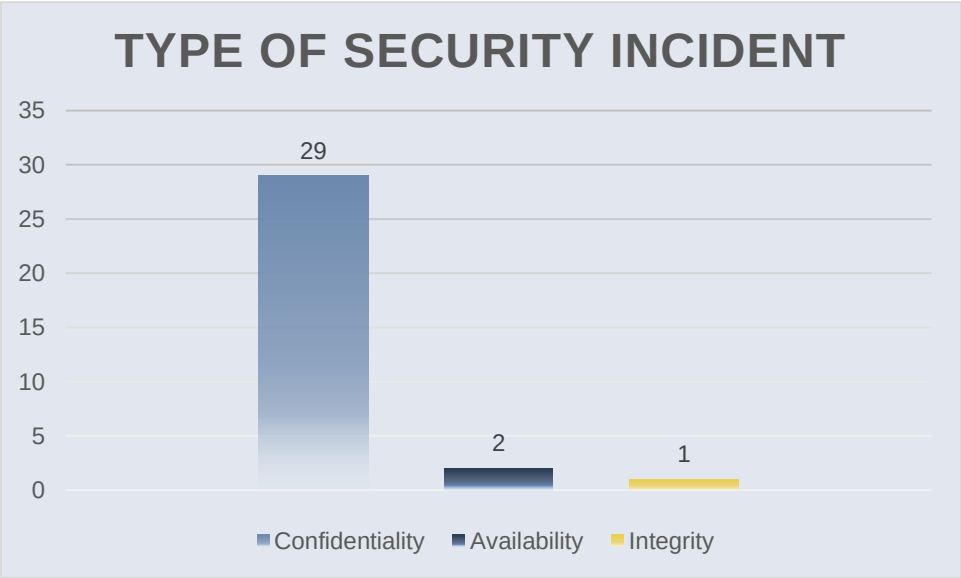
TYPE OF DBN



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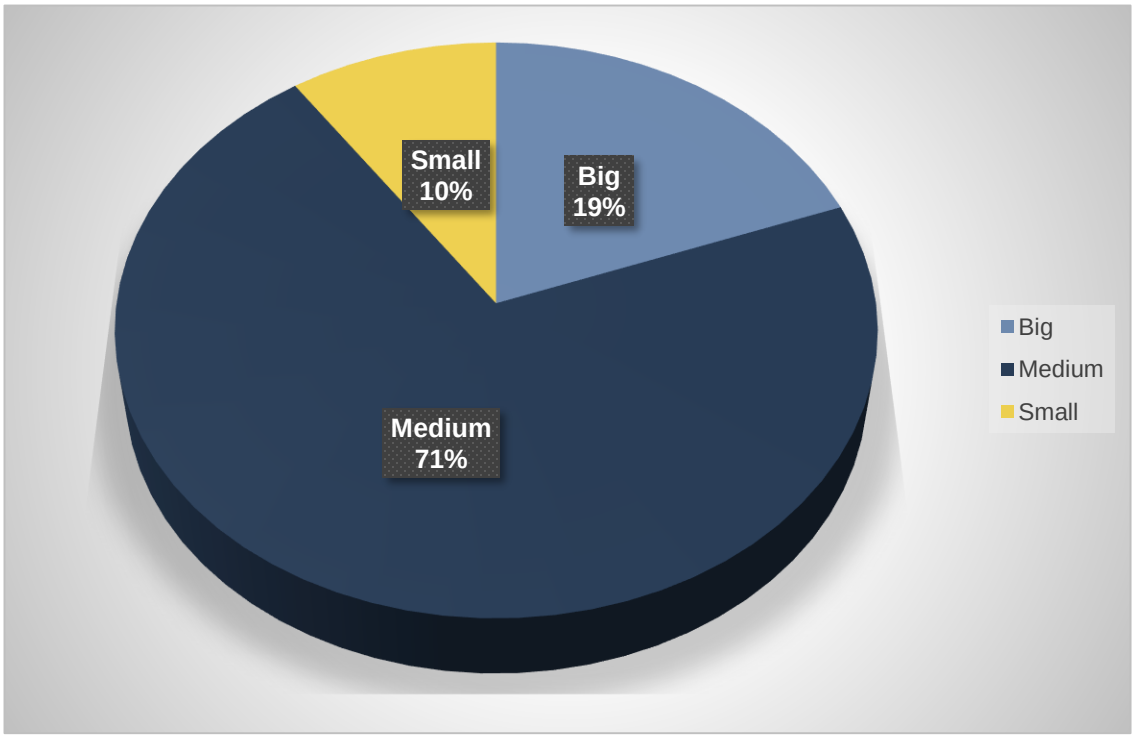
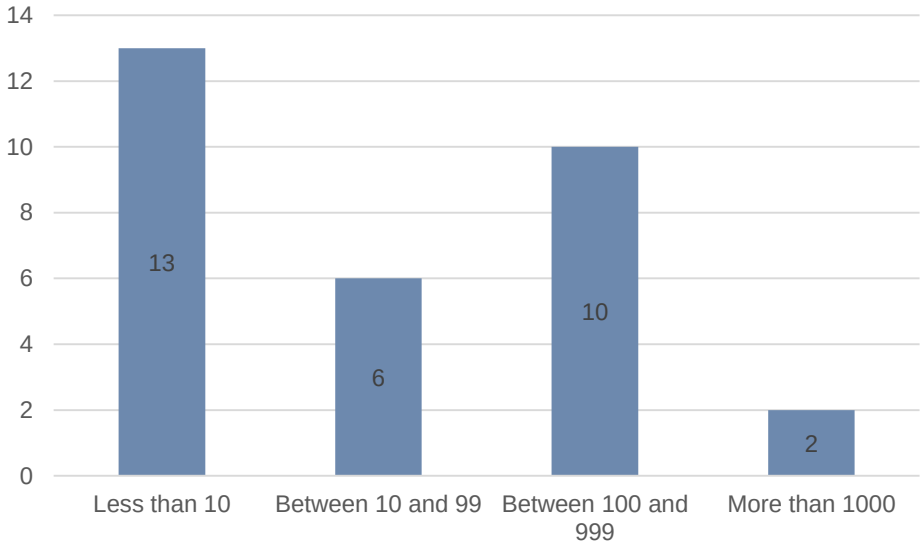
NUMBER OF DBN PER CONTROLLER SIZE



NUMBER OF AFFECTED DATA SUBJECTS



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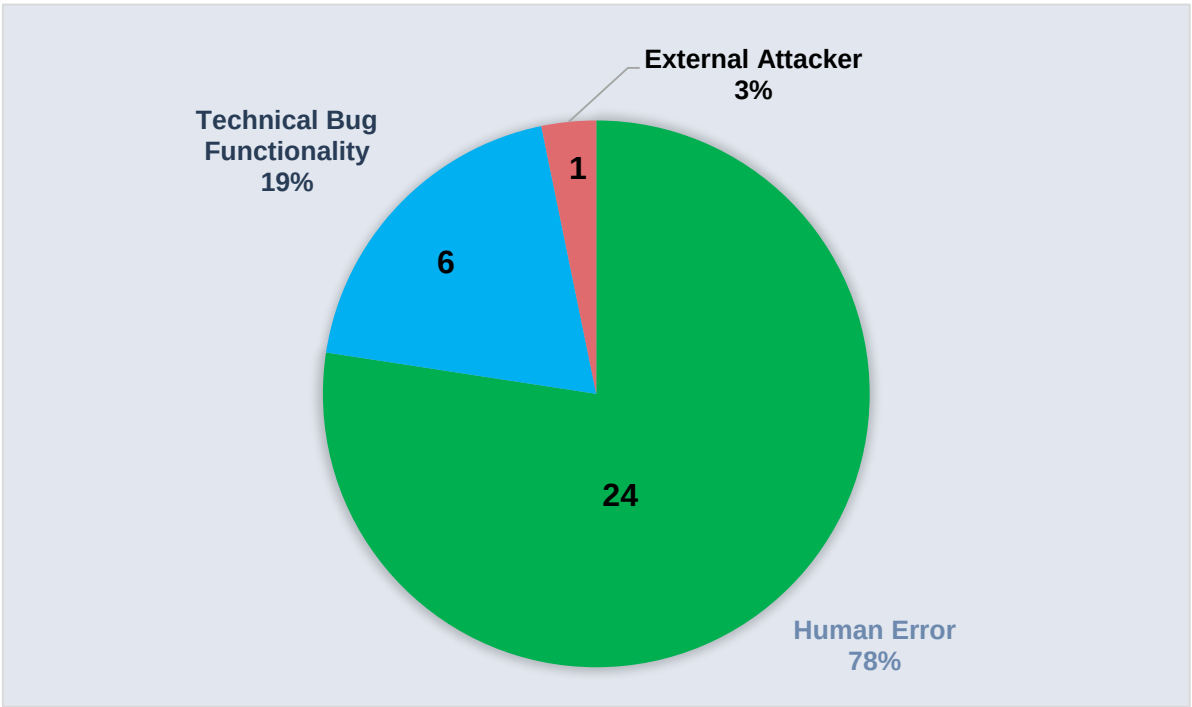
ROOT CAUSE



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LESSONS TO BE LEARNED

- The risk of a human error causing a data breach can be avoided or mitigated.
- The aim of providing data controllers 72 hours to notify is not to ‘solve’ the data breach.
- The data breaches distribution does not correlate with the size of the institution. Data breach prevention is for all.
- Communication between data controllers and processors must be agile. This requires both contractual and operational safeguards.
- Risk assessments of the impact on data subjects privacy must be formal, objective and documented.

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OBSERVED DIFFICULTIES

- Timely respond and notify the Supervisory Authority (within 72 hours)
  - ❑ Internal Communication problems delayed the process
  - ❑ Lack of decision on the incident
- Correct identification of a Personal Data Breach
  - Notifications with assessment of no risk
  - Notifications were risk are completely avoided
- Lack of training and awareness
- Assessment of Risk (different approaches observed) in line with DPO skills

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MEETING THE 72 DEADLINE

- The hours of a Saturday or Sunday count as much as the hours of a Monday.
- There is nothing wrong in using a phased notification.
- Personal data breaches are security incidents ▸ Incident response plan.
  - Who will do what
  - Who should be informed
  - How to get in contact with the external and internal stakeholders
  - Templates
  - Awareness raising exercises
- Adequate communication policy and channels with data processors.
- Do not hesitate to contact the EDPS if in doubt. We will help you.

RISK BASED APROACH: ASSESSING IMPACT OF A BREACH

- Case by case basis : **objective assessment**
- Likelihood and impact to the rights and freedoms of the individuals by taking into account for the processing
  - Nature, Volume, Sensitivity, Context
- DPIA and its role to assessing a risk
- 12 Different Practical examples are provided into the EDPS Guidelines with indications to NO Risk, Risk and High Risk

THANK YOU!

For more information
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