



**European Center
for Digital Rights**

Annual Report

2022

Table of Contents

1	PREFACE	3	3.3	EU-US DATA TRANSFERS	15
2	ABOUT NOYB	6	3.4	CHALLENGING DPA DECISIONS	16
2.1	OUR MISSION	6	3.4.1	Appeal of Decision by Spanish DPA in Virgin Telcon Case	16
2.2	WHO WE ARE	6	3.4.2	Cases with the Austrian DPA	16
2.2.1	Organigram & Governance	6	3.4.3	Party rights and Inactivity of Swedish DPA	17
2.3	HOW WE WORK	11	3.5	KNOWLEDGE SHARING	17
2.3.1	Complaints	11	3.5.1	GDPRhub and GDPRtoday	17
2.3.2	Lawsuits	11	3.6	UPDATES ON PAST PROJECTS	18
3	OUR PROJECTS 2022	12	3.6.1	101 complaints: use of Google Analytics illegal in Europe	18
3.1	ACTIONS AGAINST COOKIE BANNERS	12	3.6.2	Forced Consent: Meta prohibited from using personal data for advertising	18
3.1.1	Unlawful Cookie Banners	12	3.6.3	Clearview fined € 68,5 million	19
3.1.2	Complaint against Austrian Magazine PROFIL	13	3.6.4	Data breach in Malta: 65 000 € fine for IT company C-Planet	19
3.2	ENFORCEMENT ACTION	14	4	OUR FINANCES IN 2022	20
3.2.1	Payment provider Giropay tracks particularly sensitive purchases	14	5	NOYB IN THE MEDIA	22
3.2.2	Spam Emails by Gmail	14	6	2022 IN NUMBERS	23
3.2.3	Workplace Surveillance by Amazon	14			
3.2.4	Stichting CUIC and first class action	14			



Preface

noyb continues to be one of the major European forces pushing for the rights of users. While the GDPR always foresaw that non-profits have a role in this respect, we see that the lack of enforcement by data protection authorities (DPAs) makes *noyb's* work more relevant year by year.

This year, our main effort was pushing forward our nearly 800 preexisting cases, which were filed in previous years but often did not lead to a decision by DPAs. This meant that we invested a lot of work to clarify procedural issues and challenge DPAs' inactivity. While this does not necessarily make for the best headlines, this is often the procedural groundwork, that paves the way for the material decisions in our own cases, but

also cases others bring.

This work also paid off, as 2022 was the year of major decisions in our long-standing cases on EU-US data transfers: In January, the year was kicked off with a decision on [one of our data transfer complaints against the EU Parliament](#); the ruling declared the transfer of user data to the US as illegal and was therefore the first decision implementing “Schrems II”. Our winning streak continued with the [Austrian data protection authority \(DSB\) siding with us](#) on our 101 model complaints: the continued use of Google Analytics was declared illegal and further DPAs, such as the French and Italian DPA quickly followed with similar decisions.

The year ended in a similar way it started: with heaps of decisions in our favor. In December, the EDPB published its draft decision on our “forced consent” case against Meta from 2018, which led to a fine of € 390 Million against the tech giant.

Our Meta cases impressively show how the GDPR has been victim to a lack of enforcement and stalling tactics by big tech companies over the past 4.5 years. This lack of effective procedures and cooperation of data protection authorities currently means that *noyb* has to spend the majority of its time on procedural problems, often as trivial as ensuring that documents are not lost between authorities, all the way to filing numerous court cases against inactive authorities. While this takes away resources from more relevant material privacy issues, it also shows how *noyb* is crucial in making enforcement a reality and pushing matters further.

Our Meta cases impressively show how the GDPR has been victim to a lack of enforcement and stalling tactics by big tech companies over the past 4.5 years. This lack of effective procedures and cooperation of data protection authorities currently means that *noyb* has to spend the majority of its time on procedural problems, often as trivial as ensuring that documents are not lost between authorities, all the way to filing numerous court cases against inactive authorities. While this takes away resources from more relevant material privacy issues, it also shows how *noyb* is crucial in making enforcement a reality and pushing matters further.

Obviously, 2022 also brought many new projects and brought cases before courts in Austria, Sweden, Luxembourg and Spain. We also filed 229 new complaints with the respective authorities, for example against [Google for creating Spam Emails in Gmail](#), [another round of semi-automated cookie banner complaints](#), a complaint against [giropay](#) for collecting highly sensitive data, and a complaint against the Austrian news site [Profil.at](#) for forcing users to accept Google tracking cookies.

We also started a new collaboration project with the

[workers union UNI Global on data-transparency for Amazon workers](#). Amazon’s highly invasive delivery process is having harmful effects on its 1.3 million workers. Employees are relentlessly monitored, evaluated, and subject to high-pressure and gruelling conditions. As we aim to find out how Amazon treats workers’ personal data, we assisted workers in filing access requests and are currently analysing our findings.

An additional focus of the year 2022 was our internal IT processes: to manage our 800+ ongoing cases we developed a custom-made case management system to ease administrative burdens on our legal team. In addition, we are preparing a class action management tool for future collective actions, and have implemented technical solutions to streamline the management of our wiki [GDPRhub](#).

GDPRhub grew to a significant knowledge database for *noyb*, data subjects, DPOs but also businesses. With around 2.500 decisions and judgments from all over Europe our 50 active volunteers and our team (without whom this project would not be possible) actively built the largest free database on GDPR knowledge. *noyb* is following a purely academic approach, merely making the reality of GDPR implementation available to decision makers which likely leads to more compliance even before litigation is brought. We will further expand our work on sharing knowledge further in 2023 and hope that this work will further improve compliance among players that may simply need more information on the GDPR and its implementation.

Next to legal action and technical solutions, we aim at making use of PR and media initiatives to emphasize and ensure the right to privacy. Our team of now twenty people has participated in numerous events such as conferences, summits, hearings and discussions and given interviews or published insight in nearly every European member state. We have sent out 32 press statements, posted hundreds of social media posts on five different platforms and have managed to be an active voice in public discourse on privacy and data protection.

None of our work would have been possible without



PHOTO BY GEORG MOLTERER

our 5.100 supporting members, institutional members and every individual person donating to *noyb*. We deeply appreciate this support especially during these economically difficult times. Your generosity and dedication enables us to continue our work and make a meaningful impact to digital rights.

Moving forward, we hope to see a number of decisions in our pending cases. Since the GDPR came into force in 2018, *noyb* has filed 848 complaints, of which [764 have not been decided](#). We will continue to build legal tech initiatives to create enforcement on a larger scale, challenge inactive data protection authorities and, unavoidably, continue to file complaints.

Besides focusing on lawsuits against regulators that do not handle complaints within reasonable time, *noyb* will also engage in direct actions against companies, including through collective redress. The directive on collective redress will enter into force in the summer of 2023. We will continue to make use of mass complaints (similar to the cookie project) in order to combat widespread privacy violations. Finally, we will follow the development of the new adequacy decision meant to regulate transatlantic data transfers and likely challenge it (again).

We are excited to see where all of this is going. I would like to thank the *noyb* team and our supporters for getting us this far in only five years!

Max Schrems

HONORARY CHAIRMAN

About noyb

2.1 Our Mission

noyb follows the idea of targeted and strategic litigation in order to strengthen the right to privacy: *noyb* pursues strategic and effective enforcement by thoroughly analyzing and prioritizing privacy violations, identifying the legal weak spots of these cases and litigating them with the best possible strategy and the most effective method to achieve maximum impact. *noyb* either files complaints against companies to the responsible data protection authority (DPA) or brings cases to courts.

We also make use of PR and media initiatives to support the right to privacy without having to go to court. Last but not least, *noyb* is designed to join forces with other organizations, resources and structures to maximize the impact of GDPR, while avoiding parallel structures.

More information can be found in our [concept](#).

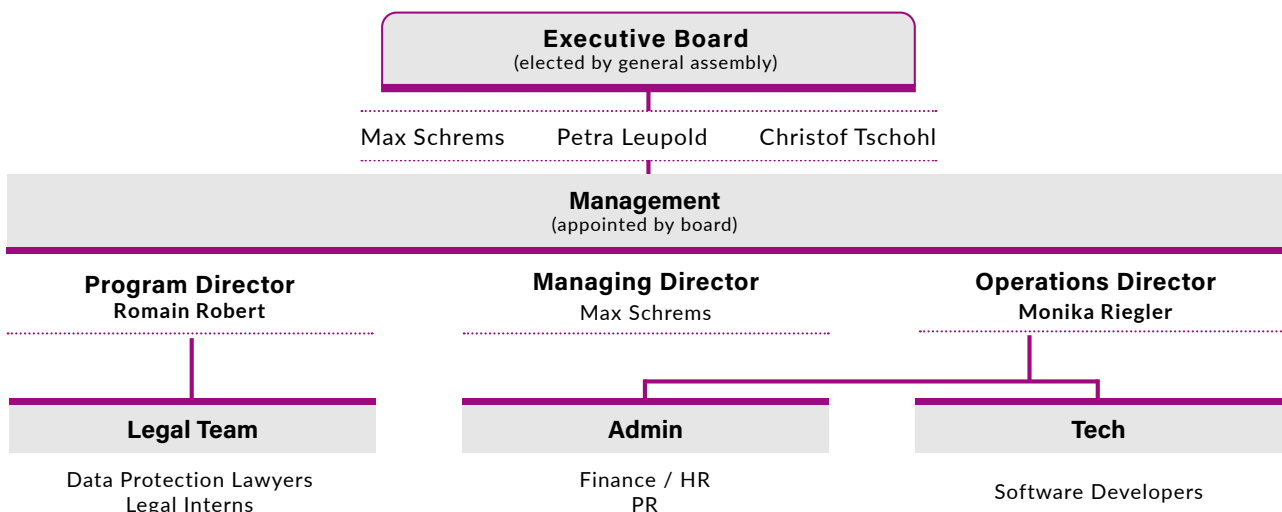
2.2 Who we are

noyb's General Assembly consists of distinguished individual members that are deeply committed to privacy, the GDPR, and the enforcement of fundamental rights and representatives of our institutional members, such as the City of Vienna, Austrian Chamber of Labor and others. The General Assembly meets once every two years and appoints the executive board.

The Executive Board ("Vorstand") sets the long term goals, reviews the operations of the organization and meets once a quarter. According to the

[Articles of Incorporation](#) of *noyb*, all Board Members strictly act on a pro bono (volunteer) basis.

The Executive Board can appoint one or more Directors that manage the daily business within the office and who may represent *noyb* for any matter. In addition to Max Schrems, who acts as a pro-bono Managing Director of *noyb* since its founding, Romain Robert was appointed as Program Director and is leading the Legal Team. Monika Riegler is responsible for all administrative affairs of *noyb*.



Executive Board



Mag. Max Schrems

HONORARY CHAIRMAN & MANAGING DIRECTOR

Max Schrems is an Austrian lawyer, activist and author and has led a number of successful data protection and privacy practices since 2011. His cases (e.g. on the EU-US Safe Harbor Agreement) were widely reported, as enforcement of EU privacy laws was rare and exceptional. He holds a law degree from University of Vienna.

We have solid privacy laws in Europe, but we need to collectively enforce them to bring privacy to the living room of users. noyb will work on making privacy a reality for everyone. I am happy to provide my personal experience and network to noyb.



Dr. Petra Leupold, LL.M.

HONORARY BOARD MEMBER

Petra Leupold is the Managing Director of the VKI-Academy, the research academy of the Austrian Consumer Protection Association. She brings invaluable general consumer protection experience to the table and helps to bridge the gap between the tech and the consumer worlds.

Data protection and the right to privacy are core consumer rights. I want to help guide this organization to be a robust advocate for consumer privacy and—as a representative of the Austrian consumer protection agency (VKI) - support it with our longstanding expertise in consumer law enforcement.



Dr. Christof Tschohl.

HONORARY BOARD MEMBER

Christof Tschohl successfully brought down the Austrian data retention legislation and was the former chairman of epicenter.works, which is dedicated to defending our rights and freedom on the Internet. Furthermore, he is the scientific director of Research Institute – Digital Human Rights Center. He holds a Doctorate of Law from the University of Vienna.

As chairman of 'epicenter.works' I have been working on government surveillance for years. We successfully challenged the EU data retention directive. As a board member of noyb, I am looking forward to closing the enforcement gap in the private sector.



Staff

In the past years we built a pan-European team of lawyers and experts. Besides answering initial inquiries and helping our members, the core task is to work on our enforcement projects, legal tech initiatives and to engage in the necessary research for strategic litigation. Our team is the key factor to make sure that privacy becomes a reality for everyone.



Romain Robert
PROGRAM DIRECTOR

» *Data protection on paper looks amazing. But when you try to enforce your rights, it is not always that easy. noyb is a great place for lawyers who want to make privacy a reality.*



Monika Riegler
OPERATIONS DIRECTOR

» *We are here to build a strong organization that can help shaping the privacy landscape in Europe for the better – to make sure that privacy becomes a reality.*

Staff – Legal team



Ala Krinickyte
DATA PROTECTION
LAWYER



Stefano Rossetti
DATA PROTECTION
LAWYER



Marco Blocher
DATA PROTECTION
LAWYER



Felix Mikolasch
DATA PROTECTION
LAWYER



Lara Riermeier
GDPRHUB COMMUNITY
MANAGER

Traineeships

Since October 2018, *noyb* has been offering legal traineeships for university graduates with a strong interest in privacy law. Our trainees obtain experience in legal research, factual investigations, and drafting complaints. Furthermore, they work on *noyb*'s publicly available database GDPRhub and *noyb*'s weekly newsletter GDPRtoday. In 2022, ten trainees from seven different countries joined *noyb* for a duration of three to six months.

Staff – Office & Tech Team



Kirsi Swoboda
OFFICE MANAGER



Tenger Od
OFFICE ASSISTANT



Phoebe Tobien
PR MANAGER



Emilia Gruber
CONTENT CREATOR



Horst Kapfenberger
SOFTWARE DEVELOPER



Mux
SOFTWARE DEVELOPER



Stefan Schauer
SOFTWARE DEVELOPER

2.3 How we work

Many companies ignore Europe's strict privacy laws. They take advantage of the fact that, far too often, it is too complicated and expensive for individual users to enforce their rights, and that any procedures initiated against them take a very long time to resolve. In May 2018, the new General Data Protection Regulation (GDPR) came into force – heralding a new era in EU data protection with new enforcement mechanisms. Article 80 of the GDPR allows NGOs, such as *noyb*, to collectively enforce digital rights.

noyb pursues strategic and effective enforcement by thoroughly analyzing and prioritizing privacy violations, identifying the legal weak spots of these cases and litigating them with the best possible strategy and the most effective method to achieve maximum impact. *noyb* either files complaints against companies to the responsible data protection authority (DPA) or brings cases to courts.

2.3.1 Complaints

Complaints are filed with a national data protection authority (DPA) and are a cost-efficient way to enforce the GDPR. When receiving a complaint, the authority has to investigate and decide on a complaint within a reasonable period (e.g. in Austria within half a year). Oftentimes different DPAs have to cooperate to come to a decision under the GDPR, e.g. if the concerned user and the involved company are not in the same country. If the DPA does not decide within the deadline or the data subject does not agree with the legal reasoning, the decision can be appealed with the competent courts. *noyb* decides whether to lodge a complaint based on the following factors:

- **High and direct impact:** A case or project should directly impact many people (a whole industry or a common practice across different sectors and across Europe).
- **High Input/Output Ratio:** We only engage in cases or projects that have a good input/output ratio in order to maximize the use of our funds.
- **Strategic:** Strategic litigation is based on considering all elements that may affect the case or project and making informed decisions on these elements. Each case should have ideal timing, jurisdiction, costs, fact patterns, complainants, and controllers.
- **Narrow and Well-Defined:** Many controllers violate just about every Article of the GDPR. We pick the relevant part only.

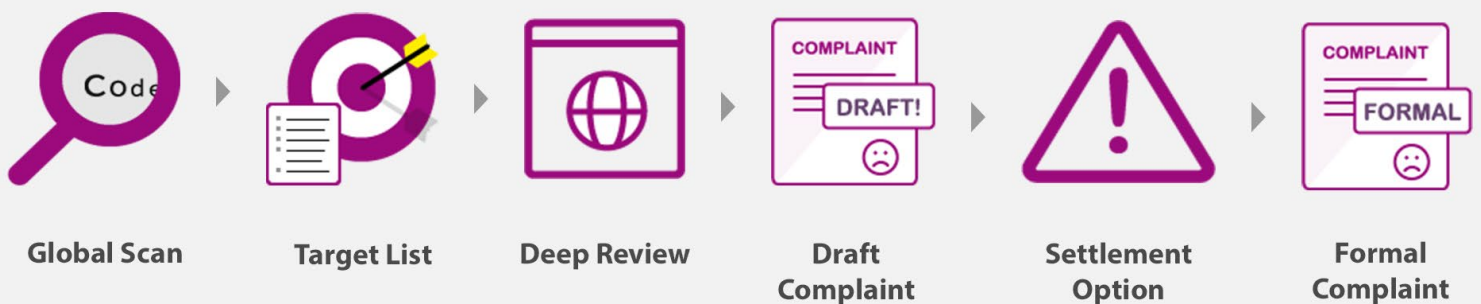
2.3.2 Lawsuits

There are two types of lawsuits. The first are lawsuits directly against a company. Such lawsuits typically cost more than complaints, but are oftentimes an even more powerful tool. One advantage is that lawsuits are not subject to a cross-border procedure, as would be the case with a complaint against a company located in a different Member State. For example, cross-border procedures will apply when a complainant lives in Austria but the targeted company is based in Ireland.

Another type of lawsuit is in the appeal process of a complaint. Such a lawsuit is against the decision of the authority. The court can refer a case to the next instance, up to the Court of Justice which has to decide on fundamental questions of legal interpretation.

Our Projects

Major developments are published on our [website's homepage](#).
An overview of ongoing projects can be found on our [project page](#).



3.1 Actions against Cookie Banners

3.1.1 Mass complaints against unlawful cookie banners

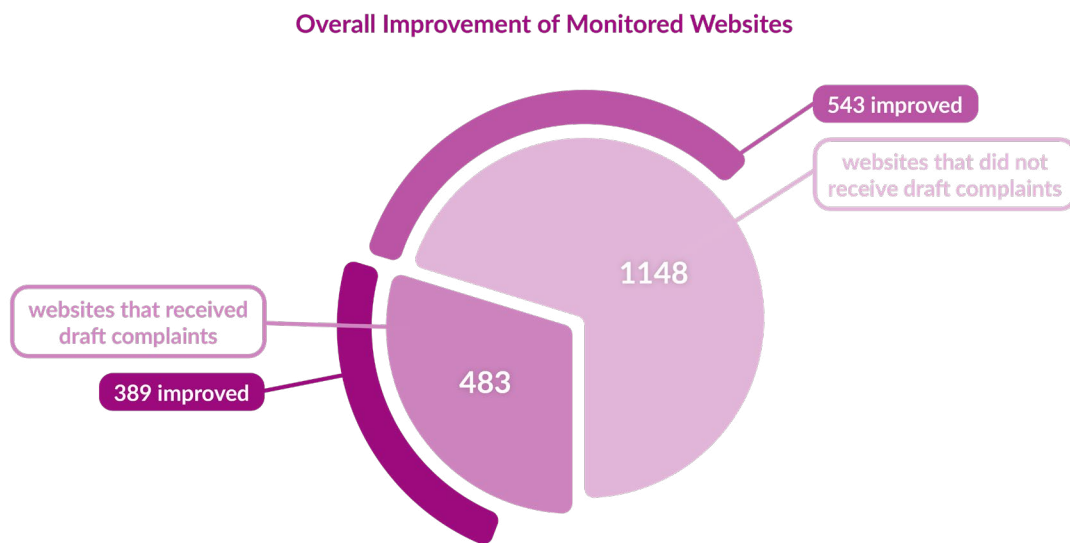
The GDPR specifies that users must have control over their own data and must therefore have a clear yes or no option as to whether they want to consent to the cookie settings. However, many cookie banners make use of so-called "dark patterns" which nudge visitors to accept cookies by not providing an easy opt-out option or having unfavorable contrasts for buttons or links. This clearly contradicts the requirements of the GDPR. For this reason, *noyb* started a legal tech project in early 2021 to develop a software that automatically detects privacy violations on the most visited pages in Europe and, after a user manually visits a website, automatically generates a draft complaint based on the specific violation. The websites were selected based on (1) jurisdictions, (2) the number of visits, (3) the Consent Management Platform that is used, and (4) the detected violations.

By August 2022, over 800 draft complaints were sent to the affected companies using the Consent Management Platform "Onetrust". They were provided with a grace period of 60 days and step-by-step instructions on how to make their cookie banners compliant with the law. The companies could report their compliance on *noyb's* WeComply tool, which was specifically developed for this project. If there were still violations after 60 days, a formal complaint was filed with the competent data protection authority. Of the more 800 websites initially complained about, some breaches were fixed by the operators, but as many companies only improved individual aspects, a total of 692 formal complaints were filed. In the coming months, *noyb* will continue to pursue the goal of getting rid of misleading cookie banners and extend the project to sites using other Consent Management Platforms (CMPs).

Results: After filing nearly 700 complaints and the considerable amount of media coverage that accompanied the project, improvements became visible - including websites that were not initially affected. Many cookie management software providers also stepped up their advertising for legally compliant configuration. In order to coordinate the cooperation of *noyb's* mass complaints, a task force was established by the European Data Protection Board (EDPB): in a report

issued in early 2023, the EDPB largely supported our call for fair cookie banners. This report reflects the smallest common denominator in the DPAs' interpretation of the applicable law and sets a minimum threshold to assess consent cookie banners.

From the initially scanned websites, at least 56% introduced more compliant cookies banners. As of today, 60 cookies cases have been closed.



3.1.2 Complaint against Austrian Magazine PROFIL

In October 2022, *noyb* filed a [GDPR complaint against the Austrian news magazine Profil.at](#). The website had forced users to accept cookies placed by Google and the ÖWA (Austrian Web Analysis). Without consenting to personalized advertising and tracking, readers could not use profil.at, and revoking consent was equally impossible. In this case, user consent is neither free nor unambiguous, and therefore invalid. The complaint is directed against the data processing by services such as "Google Advertising Products", "Google Tag Manager", "Google Analytics" (which have already been declared illegal), "ÖWA" and the data transfers within the group.



The complaint is currently being handled by the Austrian Data Protection Authority.

3.2 Enforcement Actions

In addition to our focus on Cookie Banners as described above, *noyb* has also filed several complaints for other privacy infringements. An overview of all complaints can be found [here](#).

3.2.1 Payment provider Giropay tracks particularly sensitive purchases

In February 2022, *noyb* filed a [complaint against the German payment service “Giropay”](#), formerly known as “paydirekt”, for collecting highly sensitive user data and therefore not adhering to the principle of data minimization. A customer contacted *noyb* after seeing a detailed list of products they have ordered in an online pharmacy and a sex shop listed in their Giropay account. This data concerns the customer's health and sexual preferences and is therefore specifically protected under the GDPR and may not be processed without consent.

3.2.2 Spam Emails by Gmail

In August 2022, we filed a [complaint against Gmail](#) for repeatedly ignoring the European Court of Justice (CJEU) ruling on direct marketing emails and continuing to send unsolicited advertising emails without the consent of their users. While Gmail successfully filters most external spam messages in a separate spam folder, the unsolicited spam messages by Google are sent directly to the user's inbox. This gives the impression that the user subscribed to these emails or services, when in reality, no consent was obtained from the user. Google's lack of a legal basis is currently being decided by the French authority CNIL.

3.2.3 Workplace Surveillance by Amazon

In a cooperation between the worker's union “UNI Global” and *noyb*, Amazon warehouse workers from Germany, UK, Italy, Poland and Slovakia filed access requests under Article 15 GDPR in March 2022. The goal was to find out how Amazon treats workers' personal data under the General Data Protection Regulation (GDPR). *noyb* analysed Amazon's responses and found substantial issues in terms of transparency.



Amazon failed to provide workers with clear and tailored information on the data processing, including purposes, categories of personal data, legal basis, sources and recipients. Workers were also left in the dark about the company's use of surveillance systems to monitor workflows and assess their performance. The parties involved are now in the process of filing GDPR complaints.

3.2.4 Stichting CUIC and first class action

Together with the Dutch NGO Privacy First, *noyb* founded the Stichting [CUIC](#) (“Consumer United in Court” or “See you in Court”) in October 2021. The CUIC Foundation's mission is to enforce privacy and the right for data protection by litigating under collective action legislation in the Netherlands. The first lawsuit should be initiated during the first half of 2023 against Antivirus software provider Avast. *noyb* was a member of the management board of CUIC until January 2023 and decided to appoint another member to replace *noyb*'s seat at the board so that *noyb* could focus on its own collective redress litigations.



3.3 EU-US Data Transfers

After the invalidation of Privacy Shield in July 2020, Ursula von der Leyen and US-President Joe Biden announced an [“agreement in principle”](#) for a new data transfer vehicle for the US in March 2022, despite two Court of Justice (CJEU) rulings striking down the previous “Privacy Shield” and the “Safe Harbor Agreement”. In a [letter](#) to Commissioner Didier Reynders, EDPB Chair Andrea Jelinek and other representatives of European bodies, *noyb* highlighted the need for material changes to U.S. law in order to not discriminate non-US persons by refusing baseline protections as a precondition for negotiations.

In October 2022, Joe Biden signed the [Executive Order](#) that was meant to respect the CJEU’s past judgments. Similarly, to its predecessors, however, the Executive Order seems to fail on the two requirements made by the CJEU: (1) that US surveillance is *proportionate* within the meaning of Article 52 of the Charter of Fundamental Rights (CFR) and (2) that there is access to *judicial redress*, as required under Article 47 CFR. The Executive Order foresees a two-step procedure, with the first step being an officer under the Director of National Intelligence and a second step being a “Data Protection Review Court”. However, this will not be a “Court” in the normal legal meaning of Article 47 of the Charter or the US Constitution, but a body within the US government’s executive branch.

On December 13 2022, the European Commission issued a [draft adequacy decision for the US](#), based on this Executive Order. The draft decision was then reviewed by the European Data Protection Board (EDPB), the European Parliament and the Member States. The [EU Parliament](#) had called on the Commission not to adopt any new adequacy decision in relation to the US, unless meaningful reforms were introduced. The EDPB raised concerns on certain rights of data subjects, onward transfers, the scope of exemptions, temporary bulk collection of data and the practical functioning of the redress mechanism, while welcoming the general improvements in the agreement. However, these statements are not binding on the Commission. Once the final decision is published, European companies can rely on it when sending data to the US. The final decision is not expected before spring 2023.

Since the changes in U.S. law are rather minimal and certain amendments such as the introduction of the proportionality principle or the establishment of a Court may sound promising - but on closer examination are not sufficient, *noyb* believes this decision is likely to fail before the CJEU again and will most likely challenge this decision.

3.4 Challenging DPA decisions

In the past four years, *noyb* mainly focused on filing complaints with the national Data Protection Authorities. This year, our work has been shifting more and more to national courts: On the one hand, *noyb* increasingly appeals decisions by Data Protection Authorities; on the other hand, *noyb* files lawsuits against regulators if they fail to make timely progress in our cases. We expect a greater proportion of our activities to take place in the courts over the next few years. Furthermore, several court procedures already brought in the past years are still pending.

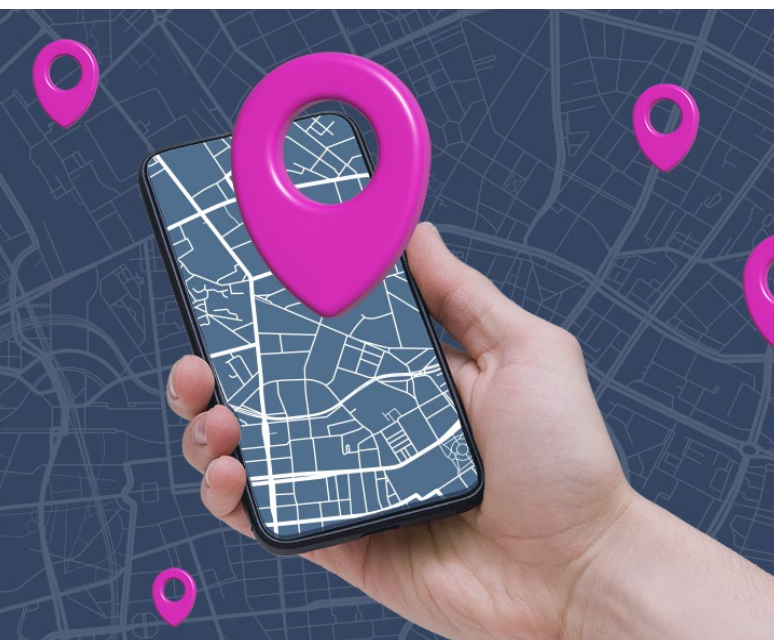
3.4.1 Appeal of Decision by Spanish DPA in Virgin Telco Case

Despite multiple Court of Justice (CJEU) decisions prohibiting data retention, some EU Member States, like Spain, still require mobile network operators to record the metadata of all phone calls, short messages and cell tower logins. The European Charter of Fundamental Rights, as well as the GDPR, however, grant everyone the right to access their personal data. After Virgin Telco had refused to disclose data to a client who had wanted to enforce his right to access, *noyb* [filed an appeal against the Spanish DPAs decision](#) which sided with the phone company in June 2022. In January 2023, the [Audencia Nacional](#) annulled the decision by the Spanish DPA which will now have to issue a new decision. The fundamental right to access must always be respected, even if telecommunication providers have to store location data on their customers.

3.4.2 Cases with the Austrian DPA

Under Austrian law, the data protection authority must decide complaints within six months. *noyb* has consequently submitted several inactivity complaints (“*Säumnisbeschwerden*”) to the Austrian Data Protection Authority and to the Federal Administrative Court because the Authority fails to meet this deadline. In 2022, *noyb* filed inactivity complaints in four of our cases: [In the Google AAID \(Android Advertising Identifier\) case](#), our [Clubhouse complaint](#) concerning the right to access, our case against the [credit reference agency KSV 1870](#) who had collected data from people requesting information and in the [AZ Direct case](#) in which the address publisher illegally shared data with a credit ranking company.

In addition to these new cases, several already existing appeals are still pending before the Federal Administrative Court in Austria: We soon expect a decision in our pending case against credit referencing agency [CRIF](#), which generates credit scores based on incorrect data that then can have a negative impact on individual’s lives. The DPA refused to investigate this case in more detail, therefore *noyb* filed an appeal. Furthermore, an appeal in one of our [101 model cases](#) on data transfers by Google Analytics is pending before the Federal Administrative Court in Austria.



3.4.3 Party rights and Inactivity of Swedish DPA

Four years ago, *noyb* filed [complaints against Spotify for not responding properly to an access request](#). To this day, the Swedish DPA (IMY) has refused to take any action and has claimed that users are not a party to their own rights. The IMY argues that the “right to a complaint” under Article 77 GDPR merely gives users the right to petition the authority but not to participate in the procedure or get their rights enforced. In June 2022, as permitted by Swedish law, [noyb requested the Swedish IMY to issue a decision](#), which was swiftly rejected by the IMY on the grounds that the user was

not part of the procedure. Due to this arbitrary situation of the IMY ignoring the GDPR that assigns the complainant the role of a party, *noyb* lodged an appeal against the IMY. In November 2022, the [Swedish administrative court ruled in noyb’s favor](#) and held that the complainant under Article 77 GDPR has the right to request a decision from the Swedish IMY after six months. This right also applies if the IMY opens a parallel ex officio investigation into the same company. The Swedish court ordered the IMY to process and investigate the complaint.



GDPR today

3.5 Knowledge Sharing

Besides working on complaints and court cases, *noyb* is also actively disseminating GDPR developments to professionals and the general public, notably through our public wiki GDPRhub and the newsletter GDPRtoday.

3.5.1 GDPRhub and GDPRtoday

In October 2019, *noyb* initiated a newsletter project with the aim to summarize, translate and publish decisions by Data Protection Authorities and rulings by courts in all European Member States. For this purpose, *noyb* created a database with all the national sources across Europe for DPA and court decisions and employed a tool for monitoring them and creating notifications about any updates. [GDPRhub](#) and [GDPRtoday](#) were started in February 2020: a free and open wiki that allows anyone to find and share GDPR insights across Europe, together with a newsletter displaying recent decisions and a commentary on privacy developments.

The content on GDPRhub is divided into two databases: decisions and knowledge. The decisions section collects summaries of decisions by national DPAs and European and Member State courts in English. The knowledge section lists commentaries on GDPR articles and DPA profiles. In the course of 2022, the number of collected and summarized decisions has grown to more than 2.452, with more than 9.100 subscribers receiving the weekly GDPRtoday newsletter. More than 50 active volunteers help *noyb* in collecting and summarizing these decisions in jurisdictions which *noyb* could not cover in-house due to language barriers.

3.6 Updates on past projects

So far, *noyb* has filed 848 individual complaints with different data protection authorities across Europe. Only 10% (84 complaints) of the cases were decided by the competent authorities, most of which were closed or a settlement was found with the company as it had remedied the breach. Some cases have only been partially decided. Approximately 15 cases are currently before the national courts because the authorities did not decide within the legal deadline or *noyb* appealed the decision. An overview of all ongoing cases can be found [here](#).

3.6.1 101 complaints: use of Google Analytics illegal in Europe

On July 16, 2020, the Court of Justice of the European Union invalidated the Privacy Shield, the transfer mechanism previously used for data transfers between the EU and the United States. As many companies remained in default even after this landmark ruling, complaints were filed on August 17, 2020 against 101 companies from all EU/EEA states whose websites continue to transfer data to the US without a valid legal basis. The respective websites forwarded data about visitors to Google and Facebook via Google Analytics and Facebook tracking tools.

At the beginning of 2022, the Austrian Data Protection Authority declared the [use of Google Analytics and the associated transfer of data to the USA to be unlawful](#). Only a few days later, this decision was [reaffirmed by the French data protection authority](#) (CNIL) and other authorities followed shortly after. *noyb* expects further similar decisions in the coming months.

3.6.2 Forced Consent: Meta prohibited from using personal data for advertising

In May 2018, *noyb* filed complaints against Facebook, Instagram and Whatsapp with the relevant Data Protection Authorities. Meta had adopted a “take it or leave it” approach, forcing their users to consent to both their privacy policies and terms in full, in order to keep using their services. Meta tried to bypass the consent requirement for tracking and online advertising by arguing that ads were a part of the “service” that it contractually owes its users.

4.5 years after the filing of those complaints, the European Data Protection Board (EDPB) found [Meta's alleged "bypass" of the GDPR illegal](#) and has prohibited Meta from using personal data for advertising. The Irish DPC then had to implement this binding decision. Beginning of January 2023, the DPC issued three final decisions on [Facebook](#), [Instagram](#) and [WhatsApp](#), imposing a fine of € 390 million for Facebook and Instagram and € 5.5 million for WhatsApp. Both Meta and *noyb* will appeal these in 2023 in national courts (Germany, Austria, Belgium and Ireland as well as on the European level). The [DPC itself announced a lawsuit](#) against the EDPB for “an approach that does not appear consistent with the structure of the cooperation and consistency arrangements laid down by the GDPR” and might have been an “overreach” in *noyb*’s forced consent cases.



3.6.3 Clearview fined € 68,5 million

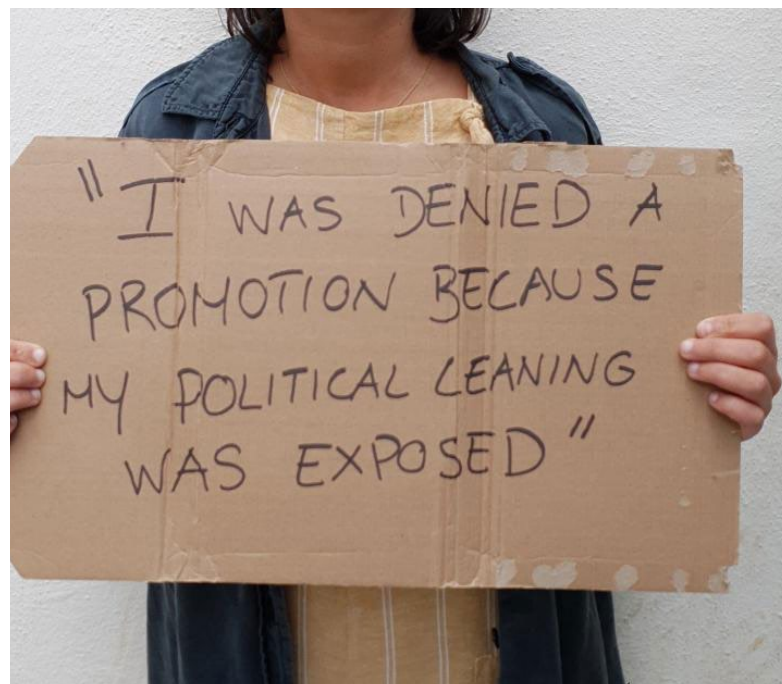
An alliance of organizations, including *noyb*, Privacy International (PI), Hermes Center, and Homo Digitalis, filed a [series of complaints](#) against Clearview AI Inc. in May 2021. The company claims to have "the largest known database of more than 10 billion facial images" and is [aiming to reach 100 billion](#) images to make almost every person worldwide identifiable. The images for this database come from social media accounts and other online sources.

So far, Clearview AI has been fined by four data protection authorities (France, Italy, UK and Greece) for scraping photos from websites to create a permanent searchable database of biometric profiles, totaling to €68.5 million.

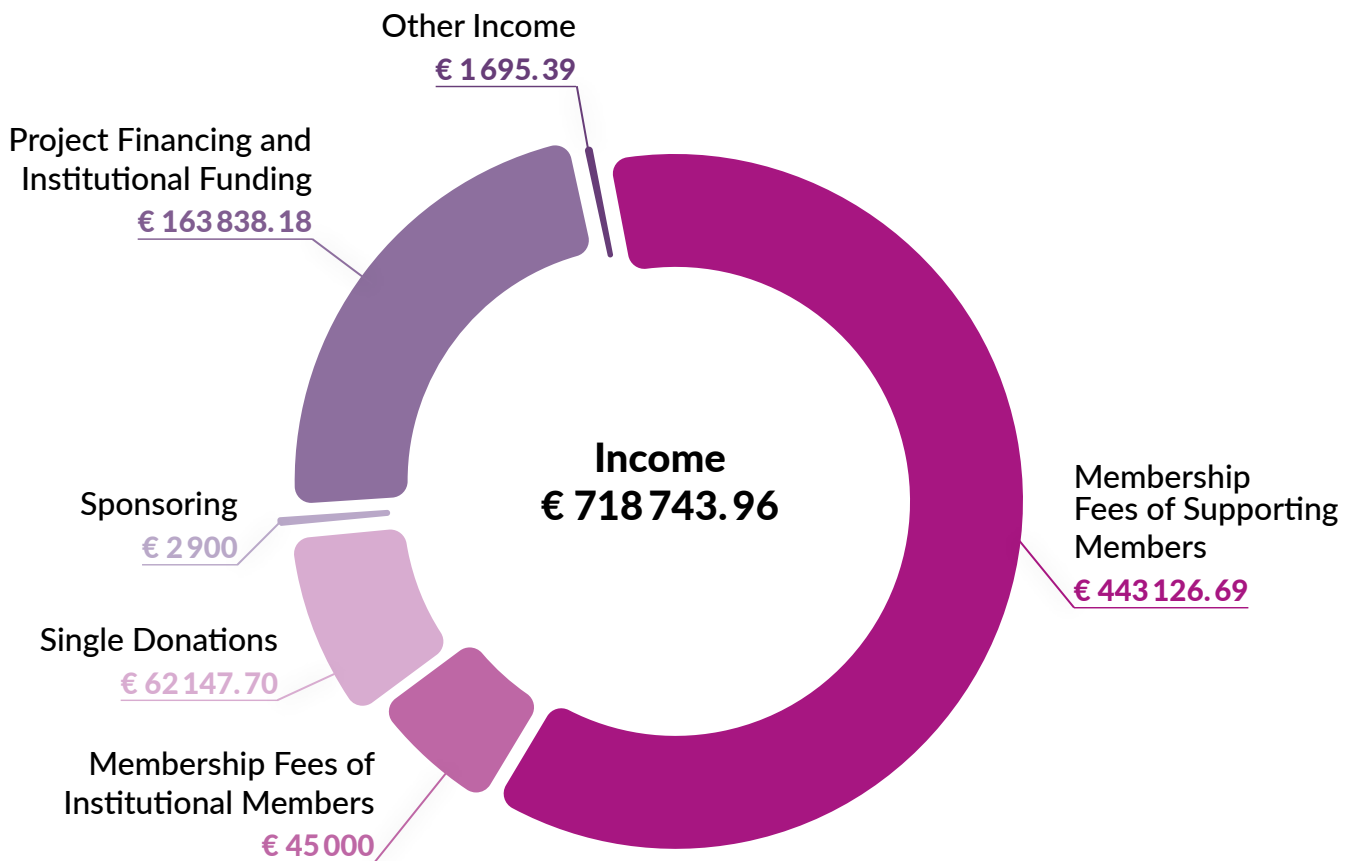
3.6.4 Data breach in Malta: 65 000 € fine for IT company C-Planet

After a massive data leak of Maltese voter's data in 2020, *noyb* cooperated with the Daphne Foundation and Repubblika and filed complaints against the data broker C-Planet. The leaked personal information included telephone numbers, dates of birth and, voting intentions and party leanings of over 330,000 individuals affected. In January 2022, the Information & Data Protection Commissioner (IDPC) concluded that C-Planet had failed to implement technical and organisational measures appropriate to the risk, which led to the data breach and fined the IT company €65,000. The decision also confirms that C-Planet failed to notify the personal data breach to the IDPC in due time and to inform the affected individuals.

Following the first fine against C-planet, we filed a [second complaint](#), as the IT company had still refused to disclose where they had received the voting preferences of Malta population. *noyb* is now explicitly asking the IDPC to order C-Planet to provide information about the original source of the data.



Our Finances



Membership Fees of Supporting Members

fees from 5 140 supporting members

Membership Fees of Institutional Members

City of Vienna (€ 25 000), Austrian Chamber of Labor (€ 20 000)

Single Donations

individual donations ranging from € 1 to € 18 000

Sponsoring

Surfboard Holding BV (€1 000), Freedom Internet BV (€1 000), GDPRhub Sponsorings (€900), Dialog-Mail (€10 500 in kind)

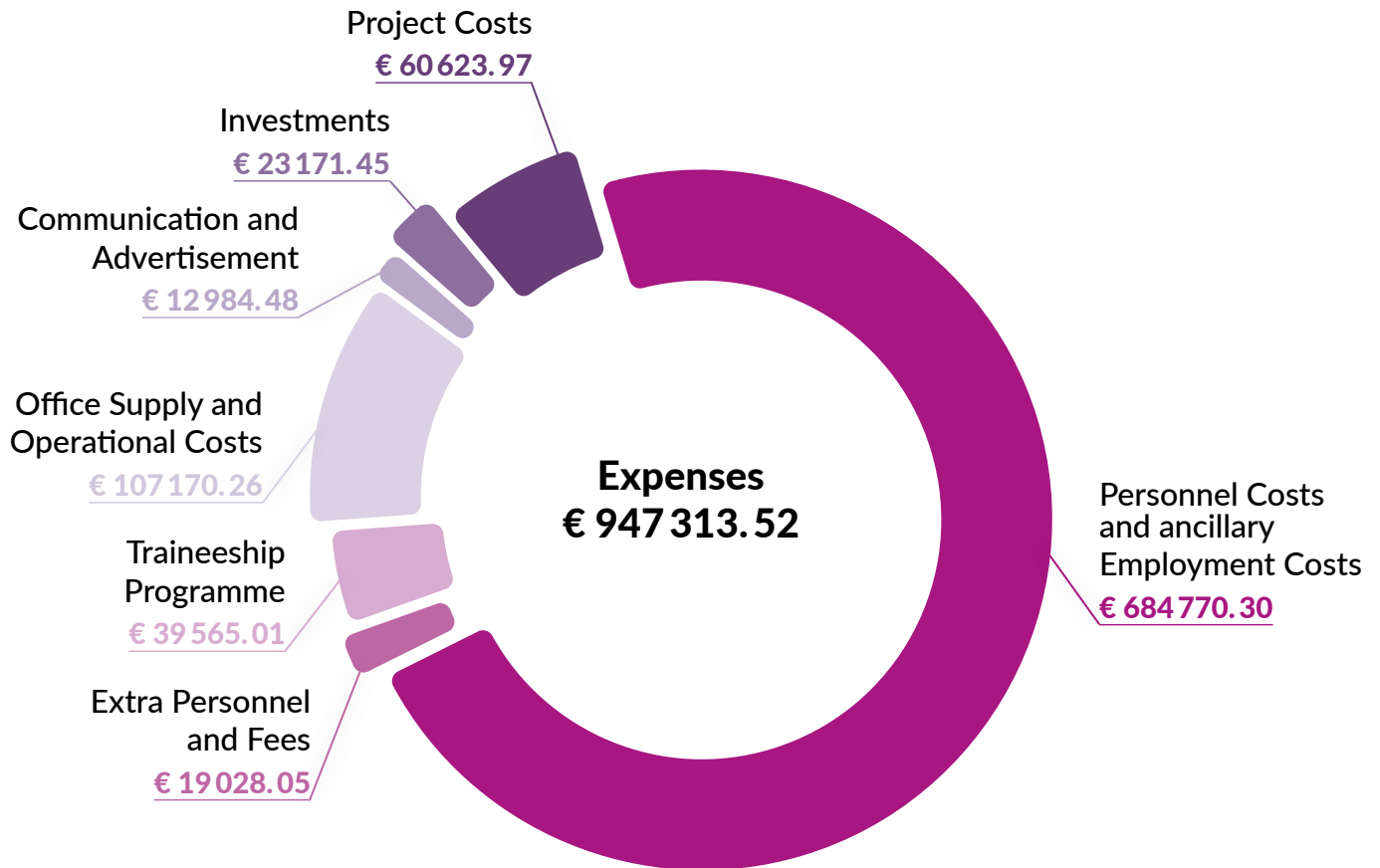
Project Financing and Funding

Austrian Ministry for Social Affairs (€15 000, core funding), Sub3 (€100 000 core funding), Forbrukerradet (€4249.25), Uni Global Union (€6296.50), BEUC (€18 000), Digital Freedom Fund (€7442.43), Internet Privatstiftung Austria (€12 500, Netidee Funding), Forum Transregionale Studien (€500)

Other Income

professional fees, interest

Our Finances





- Personnel Costs and ancillary Employment Costs**
- Extra Personnel and Fees**
e.g. external staff / freelancer / services (non-legal)
- Traineeship Programme**
daily allowances, housing, transportation tickets for extraordinary members (trainees)
- Office Supply and Operational Costs**
rent, electricity, cleaning, office supplies, insurance,...
- Communication and Advertisement**
- Investments**
furniture, hardware, software and alike
- Project Costs**
fees for external lawyers, court fees, and alike

noyb in the Media

With over 200 mentions in media outlets, we reached both national and international audiences. Here are some of our highlights of 2022



TC
Hold-outs targeted in fresh batch of noyb GDPR cookie consent complaints
Natasha Lomas @riptari / 7
Comment



Using personal info for ads without consent puts Meta in Schrems strikes again



Trotz Kritik aus Parlament und Zivilgesellschaft EU-Kommission verspricht, dass Europäer:innen genug von den Daten ihrer Apps bekommen



European privacy regulators have determined that meta's use of personalized advertising in Facebook, Instagram, and WhatsApp violates data protection laws. Specifically, the European Data Protection Board (EDPB), a group of EU privacy regulators, has invalidated a prior decision by the Irish Data Protection Commission (DPC) that allowed Meta to bypass data use consent requirements through its apps'

noyb in Numbers

229 Complaints filed in 2022, representing numerous data subjects

848 Complaints filed in total with different authorities

84 Cases closed, withdrawn or lost by authorities

14
Team Members
from 5 different countries

14
Trainees
from 8 different countries

5140
Supporting Members
from 53 different countries



over 200
Articles & Mentions



39 189
Followers on social media in total



51
Press Releases



12
Newsletters



2 452 **Summaries**

40 **Active Country Reporters**

8 429 **Subscribers to GDPRtoday**

12 **Country Reporter Meetings**

Thank you to our sponsors and partners for supporting our work and making privacy a reality!

Startpage

freedom
internet

 **dialog Mail**
eMarketing Systems

noyb

**European Center
for Digital Rights**

Imprint:

noyb – European Center for Digital Rights

Goldschlagstraße 172/4/3/2
1140 Vienna – Austria

ZVR: 1354838270