

May 23, 2019

One year of GDPR between light and shade - Further efforts of all involved necessary

The first year of application of the EU General Data Protection Regulation (GDPR) is coming to an end. From the point of view of the supervisory authority, the Hamburg Commissioner for Data Protection and Freedom of Information (HmbBfDI), the conclusion on the occasion of the first anniversary of the GDPR is ambivalent. On the one hand, awareness of data protection in society has increased significantly. Citizens, companies and politicians are focusing more than ever on this field of action. Better material protection and greater self-determination in the handling of one's own data are brought about not least by the Europe-wide harmonisation of data protection regulations and the significant strengthening of the supervisory authorities' powers of sanction. In the world of data protection, the GDPR is a beacon whose light falls from Europe to distant regions of the world and is very well perceived there.

On the other hand, not all expectations and hopes of the new data protection law have been fulfilled. Three aspects in particular are responsible for this: the overload of the supervisory authorities, the danger of over-bureaucratisation and the difficult implementation of the law in cross-border data processing in the EU. Further efforts are therefore needed to make the GDPR a resounding success.

As far as the capacity utilisation of the supervisory authorities is concerned, the statistical figures for the Hamburg Commissioner for Data Protection and Freedom of Information speak for themselves (see <https://datenschutz-hamburg.de/assets/pdf/GDPR-flyer.pdf>). The number of submissions and complaints received by the HmbBfDI from citizens since 25 May 2018 has roughly doubled compared to the same period last year. Reports of data breaches (Data Breaches) have even multiplied compared to the time before the GDPR. The significant increase in the workload at the HmbBfDI is currently not compensated for by personnel. This is to the detriment of citizens whose complaints cannot be dealt with within the expected time and of companies whose advice can hardly take place. This dramatic development can only be countered by better staffing of the authority.

Since the GDPR is a regulation with direct Europe-wide validity, cross-border aspects of data processing play a central role - especially with regard to globally operating Internet groups. This shows that, in contrast to the many data protection incidents of the last 12 months with millions of data subjects in some cases, the supervisory authorities are still waiting for a quick and clear resolution of the incidents. This is also due to the fact that the coordination processes of the supervisory authorities involved in a cross-border case are extremely complex. Legal decisions are thus made more difficult and delayed. On the other hand, purely local cases can usually be decided quickly. This can give the impression that the focus is only on locally based smaller companies, but does not affect globally active groups active throughout the EU, and that enforcement practices in the respective member

states vary greatly. This endangers confidence in the GDPR as a central element of modern European legal culture, in the basic principles of the rule of law and ultimately in the common market in Europe. Against this background, the work of all the authorities represented in the European Data Protection Committee as the highest body for data protection at EU level will play a central role in the coming years.

Johannes Caspar, the Hamburg Commissioner for Data Protection and Freedom of Information, comments: "After one year of GDPR with both positive and negative experiences, the possibilities for a success or failure of the Europe-wide regulation now lie closely together. Where undesirable developments can be identified, the legal regulations must be evaluated. This is already provided for in the GDPR. At the same time, the budget legislators in the member states must be prepared to adequately equip the supervisory authorities for their qualitatively and quantitatively increased tasks. I am optimistic that it will be possible to jointly intensify the protection of rights and freedoms of data subjects and to implement effective and efficient administrative procedures for cross-border data processing in Europe despite complex regulations. The new data protection law, launched with justified hopes, must and will prove itself in administrative practice."

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