

One year GDPR between light and shadow - further efforts of all participants necessary

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The first year of application of the EU General Data Protection Regulation (GDPR) is coming to an end. From the perspective of the supervisory authority of 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 on this field of action more than ever. Better material protection and greater self-determination in dealing with one's own data are not least brought about by the Europe-wide harmonization of data protection regulations and the significant strengthening of the sanctioning powers of the supervisory authorities. In the world of data protection, the GDPR is a beacon whose light falls from Europe to far-flung regions of the world and is clearly 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 overburdening of the supervisory authorities, the risk of excessive bureaucracy and the difficulty in enforcing the law in cross-border data processing in the EU. In order for the GDPR to be a resounding success, further efforts are therefore required.

As far as the workload of the supervisory authorities is concerned, the statistical figures for the Hamburg Commissioner for Data Protection and Freedom of Information (PDF) speak a clear language. The number of submissions or complaints from citizens received by the HmbBfDI since May 25, 2018 has roughly doubled compared to the same period last year. The reports of 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 by personnel. This is to the detriment of the citizens whose complaints cannot be processed in the expected period of time and the companies whose advice can hardly take place. This dramatic development can only be countered if the authority is better staffed.

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 global Internet companies. This shows that, given the large number of data protection incidents in the last 12 months, some of which affected millions of people, there is still a long way to go before the supervisory authorities deal with the incidents quickly and clearly. This is also due to the fact that the coordination processes of the supervisory authorities involved in a cross-border case are extremely complex. This complicates and delays legal decisions. Purely local cases, on the

other hand, can usually be decided quickly. This can give the impression that the focus is only on the smaller local companies, but the global and EU-wide active corporations are spared and that the enforcement practice in the respective member states differs greatly from one another. This endangers trust in the GDPR as a central element of modern European legal culture, in the basic principles of the rule of law and ultimately also in the common market in Europe. Against this background, the work of all the authorities represented in the European Data Protection Board, 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: "After a year of GDPR with both positive and negative experiences, the chances of success or failure of the Europe-wide regulation are now very similar. 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 willing to adequately equip the supervisory authorities for their qualitatively and quantitatively increased tasks. I am optimistic that we will succeed in jointly intensifying the protection of the rights and freedoms of those affected and, despite complex regulations, in carrying out effective and efficient administrative procedures for cross-border data processing in Europe. The new data protection law, which was launched with justified hopes, must and will also prove itself in administrative practice."

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