

Moving Data Protection forward

Proposals for amending the General Data Protection Regulation

The General Data Protection Regulation (GDPR) has improved the standing of data subjects – meaning those whose personal data is processed – significantly and in many places. Yet, it does not realise its full potential. On the one hand, the GDPR has created significant and continuing legal uncertainty, which often affects especially consumers adversely. This uncertainty results mostly from the fact that the GDPR remains abstract and omits clarifying specifications – both concerning its understanding and its practical implementation. This entices providers of digital services and others to use the existing room for manoeuvre to the disadvantage of consumers. On the other hand, certain consumer-friendly provisions simply were unsuccessful during the political and legislative process of the creation of the GDPR. This concerns for instance an adequate protection from scoring. Both hinders the many and welcome innovations that the GDPR has brought into the European data protection practice. They are unable to unfold their potentials when it comes to protecting consumers and other data subjects.

Issues exist on two levels. First, there are issues that result from normative deficits in the text of the Regulation. Second, there are conceptional issues and structural deficits. While the latter cannot be remedied easily, it is entirely possible to remedy the former – often with minimal changes to the text of the GDPR. Recognising this, Alexander Roßnagel (speaker of the Platform Privacy and Hessian Commissioner for Data Protection and Freedom of Information) and Christian Geminn (private lecturer at Kassel University) propose 33 alterations to the text in order to improve it – from the point of view of consumers and with the goal of strengthening the position of consumers and reducing the asymmetry of power between controller and data subject. “This is in line with the pronounced goal of the GDPR to have the processing of personal data serve mankind, to safeguard the fundamental rights and freedoms of data subjects and to contribute to the well-being of natural persons – with respect to the rights of the controllers”, says Prof. Dr. Alexander Roßnagel.

2024 marks the eighth anniversary of the GDPR coming into force and the sixth anniversary of the Regulation applying directly in all Member States. It is also the year that the second evaluation and review of the GDPR by the European Commission is taking place. While the occasion of the first review in 2020 was missed as a chance to implement improvements of the GDPR, the second review is a welcome chance to once again discuss necessary improvements.

For details of the proposed 33 improvements, we refer to our [policy paper](#).

In the Privacy Platform, which is funded by the Federal Ministry of Education and Research, experts analyse questions of privacy and data protection in the digital world in an interdisciplinary, critical and independent manner. The Privacy Platform is coordinated by the Fraunhofer Institute for Systems and Innovation Research and the Scientific Centre for Information Technology Design at the University of Kassel.

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