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GDPR in practice: the General Data Protection Regulation starts achieving its intended goal

For a number of companies and consumers, 25 May 2018 was a revolutionary milestone in terms of personal data importance. Partly given the significant attention paid by the media, consumers and organisations started recognising their respective rights and obligations. The regulation, which was approved in April 2016 and came into effect two years later, resulted in a number of changes in the functioning of the affected organisations. What changes were they? What is the public perception of the GDPR? Has anything changed in practice at all?

Viewpoint one: consumers

In general, with the practical introduction of the GDPR, consumers have been more interested in their personal data and the form of their subsequent processing through organisations to which the data were provided. Customers are more cautious about the companies that they do not know too well or that have a bad reputation from prior years and they are more likely to read the terms of personal data protection in the companies.

Do you know that... a third of users admit that they do not read company arrangements on personal data protection at all. For more than a half of respondents, potential misuse of personal data for the benefit of a third party is a significant risk and nearly 20% of respondents confirmed potential termination of a business relationship with an organisation from which the personal data disclosed would leak. More than a half of respondents are willing to provide additional personal data in exchange for an option to receive a personalised proposal or a discount. The positive news is that for the same number of respondents, the personal data protection issue has been clearer now.

In terms of exercising rights, the most common knowledge among respondents is that consents may be recalled while the option to transfer and access personal data is the least used right. The study shows in general that more than a half of respondents are aware of the rights resulting from the GDPR; however, only 12% of respondents have ever exercised them. The proportion represents a relatively high number of informed users compared to the results of studies on the implementation of other regulations, where awareness usually ranges between 10-30%.

Viewpoint two: organisations

Preparation for 25 May 2018 required from many organisations much time as well as significant financial investments that the companies continue to make after the key date in May. Many of them increased their HR capacities due to the GDPR implementation but in their opinion, they are still insufficient. The most frequent obstacle is the lack of funds for the long-term engagement of external human resources. In terms of increasing in-house resources, firms often face a low number of qualified people on the labour market, which primarily relates to the low

unemployment rate.

At the same time, 92% of organisations have confirmed that they have been able to keep the implemented standards in the long-term horizon. It may be concluded that most organisations use various internal and external tools to support GDPR-related activities. Another crucial factor is the ethical and responsible behaviour of organisations in the sector. Compliance with the rules relating to the GDPR implementation is one of the key factors in building an organisation's confidence and good reputation. 59% of respondents agree with this statement. Nearly a half of respondents believe that now organisations have been committed to correctness in personal data management more than before the GDPR implementation. The consumer awareness of the processing and using data by organisations has also increased.

We did extensive research on the GDPR in 11 countries covering 2,750 respondents. The purpose of the study was to identify the progress of implementation and the impacts of related GDPR measures from the point of companies and the affected consumers half a year after the effective date. Are you interested in more details? Look through the [entire report](#).

View of practice: the GDPR in the Czech Republic

What is our experience from GDPR projects? We can confirm that the study conclusions correspond more or less to our experience from the implementation of projects in the Czech Republic. The GDPR's coming into force resulted in a wave of applications to exercise data subject rights, which was in many situations driven by the initial euphoria in finding out "what the company knows about me". The number of applications has continuously decreased with time and after six months, the exercise of rights is more frequently required by persons who have a real interest in exercising some of their rights than it was shortly after the effective date.

On the part of companies, the initial stress from the effective date has been released, many companies have been working on fine-tuning and increasing the effectiveness of their processes, which were often designed in a hurry in order to meet the deadline in May. Some of the organisations consider a possible synergy with the expected ePrivacy regulation. The regulation aims at protecting the content of communication (such as instant messaging, VoIP, e-mail and communication services) together with the data produced by these means of communication. In business terms, we can expect considerable impacts on possible monetisation of data collected through cookies.

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The pros of having a strong and independent competition authority

The interaction of firms on the market is strongly regulated and competition authorities should make sure that firms do business on an equal playing field. In a competitive environment, the pressure on efficiency and effectiveness is ever greater. In order to withstand this trend, firms must keep coming up with quality and innovative goods at better prices. This is beneficial not only for consumers. Greater purchasing power of consumers and growth in firms' production ultimately contribute to the growth of the entire economy. If the rules in place are followed, firms will remain driven to offer a wide range of quality and innovative products at low prices.

Compliance with competition regulations in conducting business is overseen by national competition authorities and the European Commission. The scope of regulation is fairly wide and also covers, for example, personal data protection, digitization of industrial branches and investment protection. By applying competition standards, sanctions can be imposed on a whole series of firms' business strategies and activities. The purpose is to prevent those engaged in fraud from profiting from their actions.

The new ECN+ directive will empower competition authorities

Competition authorities in EU member states cooperate in enforcing competition law as part of the European Competition Network (ECN). In December 2018, the EU's ECN+ directive was approved, strengthening the position of competition authorities so that they may enforce competition rules more effectively and efficiently. Thanks to harmonizing provisions across the EU, sanctions for anticompetitive activities may be more severe in the near future.

The ECN+ directive stipulates the minimum set of instruments to make sure that national authorities are more capable of action in enforcing anti-monopoly rules. The competition regulator should be a powerful guardian of the principles of regulating competition and, through their decisions, contribute to ensuring that the best withstand competition. To achieve this, it should have the necessary funds and human resources at its disposal, and the power necessary to gather all relevant evidence. In addition, a coordinated leniency programme should be in place, encouraging firms to submit evidence of unlawful cartel agreements and help cleanse the market of unfair practices. Within the single market, the enforcement of competition-related legal regulations should not have varying results in different EU member states.

A public debate on transposition is taking place in the Czech Republic

At present, a public debate is taking place as to how the directive should be transposed to the national legislation. In the Czech Republic, all stakeholders may comment on transposing the ECN+ directive until 1 April 2019. It is a great opportunity for firms to consider how to participate in the initiative and affect the future form of the instruments for enforcing competition regulations.

The debate will primarily centre on implementing the necessary guarantees to assure the independence of national competition authorities. The competition rules stipulate objective criteria that are equally imposed on all market players. Therefore, authorities should act in an independent and fully impartial manner, without taking instructions from public or private entities. This should be reflected in the institutional structure of competition authorities. However, adherence to the principles and the belief that the enforced rules are correct and objective is of key importance. In this regard, the European Commission may serve as a good example. Considerable political pressure notwithstanding, it has recently banned the merger of Siemens and Alstom. In doing so, it showed its resistance to political pressures from member states and politicians calling for the competition analysis to reflect new perspectives, such as the aspects of industrial policy.

In this context, it is worth considering what the role of the competition regulator is. Its task is not to replace the market. Competition authorities should, first and foremost, cultivate the business environment and regulate firms' business strategies that are detrimental to the competition. Anti-competitive actions are ultimately detrimental to all of us. The authorities' greater capability to act, their strict independence and greater powers whose purpose is to meet the objectives of regulating competition need to be supported.

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