

The Application of GDPR by Corporations – Experiences and Challenges⁶

Establishing GDPR-compliant practices required significant efforts from companies which are controllers or processors of personal data. These efforts included, inter alia, adoption of new processes, tools, adjusting IT-systems, organizing interdisciplinary work and cooperation, training employees and raising awareness amongst their clients.

Large enterprises were in a better position to tackle these challenges, as they could allocate the necessary resources to their compliance projects. The participants agreed that the preparations required significant investments, and even with having the necessary resources at hand, the two-year long transition period proved to be too short (e.g. software vendors realized their solutions are not able to provide a delete function, development took a significant amount of time). Companies chose different approaches to reach their aims – in certain cases the process is managed by their corporate headquarters, in other cases the local subsidiaries are trusted to run their own compliance program.

However, GDPR is not only applicable to multi-national enterprises. Small companies or self-employed entrepreneurs face similar challenges, but they are not able to employ legal or data protection professionals. The participants of the discussion – with the active participation of the members of the audience – tried to find the answer

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⁶ Summary of the Roundtable Discussion with the Members of the AmCham (American-Hungarian Chamber of Commerce) Regulatory Committee representing major corporations on the Hungarian market.

whether following a reasonable approach, proportionate with the size, nature and risk profile of the given data processing would help to mitigate the risks associated with a potential non-compliance – it is at least questionable whether the state authorities will find the “reasonable” approach satisfactory.

The panelists highlighted that the data protection authority could take on a greater involvement in providing individuals with more detailed guidance to foster the effective exercise of their rights granted by the GDPR, and in providing more detailed guidance to small and medium-sized enterprises, to assist their compliance efforts. National legislation should also speed up the process of adjusting sectorial laws with the GDPR, filling the legislative gaps and eliminating parallel regulations.

Is the so-called “GDPR-panic” over? Definitely not. Understanding the GDPR requires a mindset change. Data controllers and data subjects need to understand concepts like pseudonymization of data or privacy by design; common people need to learn what consent or legitimate interest is, and how they can exercise their rights granted by the Regulation.

Two questions remain unanswered, though.

1. Are national data protection authorities now ready to oversee commercial companies’ compliance with the legislation, protecting the individuals’ rights?
2. Will these authorities provide the same level of protection for the individuals vis-à-vis state offices?