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Position paper of Gesellschaft für Informatik e.V. (German Informatics Society) on the GDPR review

The General Data Protection Regulation (GDPR) **stands as a robust framework** for data protection and **should not be revised immediately**, as amending the legislative framework now would reintroduce legal ambiguities, which have only recently begun to clear up following decisions by the Court of Justice of the European Union. Consumers as well as businesses, especially small and medium-sized enterprises (SMEs) need **stability and predictability in the regulatory environment**. Frequent changes to data protection laws could hinder their ability to comply due to limited resources and legal expertise. This could stifle innovation and growth within the digital economy. Therefore, maintaining a stable regulatory framework is essential for nurturing a healthy, competitive market landscape and fostering innovation.

Instead, we recommend focusing on **three main strategies** to address the deficiencies of the GDPR without modifying the regulation.

1. Enhancing the effectiveness of authorities and cross-border enforcement

The duration for data protection authorities to finalize decisions is often excessively long (several years) and their decision to not pursue certain complaints is sometimes questionable. Therefore, it is important to **address the authorities' lack of resources**.

Secondly, it is important to **address enforcement shortcomings in cross-border cases**, that have hindered the full realization of the GDPR's potential. There are instances where, despite national data protection authorities recognizing the validity of a complaint against a company, the lead authority might challenge this validity again. Effective enforcement is crucial not only for safeguarding data subjects' rights and sustaining trust in the legal framework but also for ensuring fair competition among data controllers and preventing the practice of forum shopping.

The enforcement challenges faced by data protection authorities have been evident for years and remain largely unaddressed, despite the European Data Protection Boards (EDPB) efforts. There is an urgent need to **clarify and standardize the procedural rules for GDPR enforcement**. However, the Commission's proposal in July 2023 falls short. Key issues include inadequate



rights for complainants, such as limited access to documents and hearings, overly lenient provisions for the lead supervisory authority, and overly stringent conditions for other supervisory authorities. The proposed regulation might also complicate what should be straightforward cross-border cases.

Moreover, to appropriately scrutinize the handling of personal data by artificial intelligence systems, the Commission needs to **enhance the abilities of data protection authorities** by supporting technological tools that aid the authorities in conducting thorough audits of data processing activities, including data deletion.

2. Protecting consumers from tracking and profiling by emerging technologies

The European Commission ought to **introduce legislation** aimed at transforming the digital advertising landscape in Europe, easing the load on consumers by **banning the use of tracking and profiling for advertising**. This legislation should cover emerging technological trends, like device-based profiling, and tackle the adverse impacts associated with profiling-driven advertising, including the potential for consumer manipulation and discrimination.

3. Supporting privacy-enhancing technologies and prohibition to de-anonymise data

The Commission should **encourage research**, development and use of privacy-enhancing technologies. In particular achieving effective anonymisation of personal data is a fundamental condition for ethical and responsible data use, yet still challenging to achieve. Therefore, to ensure legal clarity, **binding requirements for the anonymisation and use of anonymised data** and the prohibition to de-anonymise data must be defined by legislation and/or technical standards.

Furthermore, the Commission should **support research** into privacy-enhancing technologies and procedures that can achieve strong anonymisation of data without degrading the analytical value of the data.



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About the German Informatics Society

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