



European Digital Rights (EDRi) is an umbrella organisation with 44 NGO members with representation in 19 countries that promotes and defends fundamental rights in the digital environment.

We welcome the opportunity to contribute to the roadmap of the European Commission's report on the General Data Protection Regulation (GDPR).

As the second anniversary of the GDPR's entry into application approaches we wish to highlight and urge action to tackle the vast enforcement gap. A large number of companies, entities and public authorities still do not comply with the GDPR. EDRi recalls that data protection should be enforced both off-line and on-line.

### **Business as usual?**

EDRi is concerned to see that most large tech companies and a majority of online actors have yet to adapt their behaviour to implement key requirements of GDPR, including data processing principles and data protection by design and by default requirements. Users are still tracked online, across websites, platforms, and through their devices, often without a valid legal basis, and without even being aware of such processing.

From lack of transparency to invalid consent, from large-scale data exploitation to deceiving practices, and more, there is plenty of evidence to show that it is high time to put an end to the "business as usual" attitude and enforce the law to make GDPR promises a reality.

Data protection authorities have a key role to play and must actively enforce the GDPR, through proactive investigations and prompt handling of users' complaints. To help with this process, Member States must respect and ensure the independence of these authorities and increase financial and human resources so they can effectively perform their tasks.

### **Enforcement is urgently needed**

When it comes to enforcement, DPAs and the EU Commission must take measures to prevent forum shopping in the protection of personal data. Several big tech companies, such as Facebook, Google, Apple and Microsoft, declare to have their main establishment in Ireland under the GDPR. With this in mind it, EDRi is concerned about the lack of decisions by the Irish Data Protection Commission.

The role of the EU Commission and of the European Data Protection Board (EDPB) when applying the cooperation and consistency mechanisms is crucial. The EDPB is an essential forum for the DPAs to exchange relevant information regarding enforcement of the GDPR. Even if we understand that not every aspect of the one-stop-shop mechanism is handled at the EDPB level, cooperation between DPAs

is of the essence to complete procedures and handle complaints appropriately and promptly, in order to offer to the individuals an effective redress, in particular in cross borders cases.

When necessary, we urge DPAs to consider calling upon Article 66 of the GDPR and trigger the urgency procedure to adopt temporary measures or to force other authorities to act in case of urgency, and to request an opinion to the EDPB in this regard. We regret that such possibility has not yet been explored.

In May 2018, EDRI and our members widely and warmly welcomed the increased protections and rights enshrined in GDPR. Now, almost two years on, we call on the EU Commission, EDPB, and DPA to move forward with the enforcement and implementation of the GDPR to make these rights a reality.