

POSITION PAPER



ESBG's response to the Commission's consultation on the GDPR

ESBG (European Savings and Retail Banking Group)

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Dear Sir/Madam,

Thank you for allowing us to voice our opinion on the European Commission's consultation on GDPR. The European Savings and Retail Banking Group (ESBG) would like to provide you with the comments below, which we hope will be considered by the Commission.

- Priority issues should be the compatibility of GDPR with new technologies and the material scope of GDPR; regarding the latter, a similar approach like in the UK's recent data protection reform would be desirable: "personal data" should be limited to those data that enable the identification of a natural person only at the time of the processing. This is an attempt to provide a more pragmatic and application-safe solution for the increasingly difficult distinction between personal, pseudonymized, and anonymous data in practice.
- A guideline for the sufficient/correct anonymization of personal data with recommendations on measures and processes would be desirable. In particular, it would be advantageous to have definitions, that recommend assumptions so that there is a sufficient distinction from the personal reference.
- Right of information: According to the EDPB, the data protection information (Art 13 GDPR) should be actively provided to data subjects. This is of course true for the first (initial) processing of personal data, i.e., when a new customer is onboarded. However, for any subsequent amendments to an existing data protection information, it should be sufficient that the new version is made available on the website of the data controller, instead of conveying the updated information directly to the data subjects.



- There are still divergent jurisdictions on similar matters by different data protection authorities of the Member States. The fragmentation often originates from different approaches by national DPAs. Some are stricter, others are more lenient. This leads to legal uncertainty and problems in interpreting the correct application of the GDPR.
- Some Member States (e.g. Austria) still grant a right to data protection to legal persons which poses additional burdens to data controllers.
- Additionally in the banking sector in some Member States, banking secrecy generally sets higher standards for the processing of personal data and therefore hinders the free flow of personal data (e.g., consents need to be in writing).
- Better assistance of the national authority in questions of interpretation outside of proceedings, by making it more firmly anchored (by the legislator) directly in the GDPR would be desirable.
- In some Member States advice from the Data Protection Authority is generally limited to generic advice, without considering the specific circumstances of the case raised and the practicalities of business life.



About ESBG (European Savings and Retail Banking Group)





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